

APPENDIX



In the Supreme Court of the United States

OCTOBER TERM, 1977

No. 76-6372

LEON WEBSTER QUILLOIN, *Appellant*,

v.

ARDELL WILLIAMS WALCOTT
and RANDALL WALCOTT, *Appellees*.

APPEAL FROM THE SUPREME COURT
OF GEORGIA

Jurisdictional Statement Filed
MARCH 11, 1977

PROBABLE JURISDICTION NOTED MAY 31, 1977

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**CHRONOLOGICAL LIST OF RELEVANT
DOCKET ENTRIES**

- March 24, 1976—Randall Walcott's Petition for Adoption of Darrell Webster Quilloin filed in Fulton Superior Court.
- May 11, 1976—Objection to Adoption by natural parent, Leon Webster Quilloin filed in Fulton Superior Court.
- May 11, 1976—Petition for Writ of Habeas Corpus to establish the visitation rights to minor child filed in Fulton Superior Court.
- May 11, 1976—Leon Webster Quilloin's Petition for Legitimation filed in Fulton Superior Court.
- June 23, 1976—Leon Webster Quilloin's Amendment filed in open court in Fulton Superior Court.
- June 30, 1976—Leon Webster Quilloin's Second Amendment to consolidated actions filed in Fulton Superior Court.
- July 12, 1976—Order of The Honorable Elmo Holt, Judge of the Superior Court of Fulton County filed in Fulton Superior Court approving the adoption, denying the objection, denying the Writ of Habeas Corpus, denying the Petition for Legitimation and refusing to hold the questioned Statutes unconstitutional.
- July 13, 1976—Leon Webster Quilloin's Second Amendment filed previously in open court on June 23, 1976 filed on the bar docket of Fulton Superior Court.
- July 21, 1976—Amended Order of The Honorable Elmo Holt, Judge, Superior Court of Fulton County filed in Fulton Superior Court.
- July 21, 1976—Notice of Appeal by Leon Webster Quilloin to the Supreme Court for the State of Georgia filed with the Clerk of the Superior Court of Fulton County.
- July 26, 1976—Amendment to Notice of Appeal filed by Leon Webster Quilloin with the Clerk, Superior Court of Fulton County.
- August 18, 1976—Transcript of the hearing of *Quilloin vs. Walcott*, Case No. C-18672 in the Superior Court of Fulton County, State of Georgia filed with the Clerk of the Superior Court of Fulton County, State of Georgia.

September 14, 1976—Enumeration of Errors of Leon Webster Quilloin filed in the Supreme Court of the State of Georgia.

January 6, 1977—Opinion and Judgment of the Georgia Supreme Court affirming the decision of the trial court decided and entered by a majority of said court and filed with the Clerk of the Supreme Court of Georgia.

January 6, 1977—Dissenting opinion filed by two Justices of the Georgia Supreme Court to the decision decided and entered January 6, 1977 and filed with the Clerk, Georgia Supreme Court.

January 12, 1977—Leon Webster Quilloin's Motion for Rehearing filed with Clerk, Georgia Supreme Court.

January 27, 1977—Denial of Leon Webster Quilloin's Motion for Rehearing denied on face of Motion and filed with the Clerk, Georgia Supreme Court.

February 18, 1977—Leon Webster Quilloin's Notice of Appeal to the Supreme Court of the United States filed with the Clerk of the Supreme Court of the State of Georgia.

May 31, 1977—Order of the Supreme Court of the United States granting Appellant's Motion For Leave to Proceed In Forma Pauperis.

May 31, 1977—Order of the Supreme Court of the United States noting probable jurisdiction of this case.

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

IN RE: Application of
RANDALL WALCOTT for } CASE NUMBER
Adoption of Child } 8466

PETITION FOR ADOPTION—filed March 24, 1976

Comes now RANDALL WALCOTT, petitioner in the above named case and shows to the Court the following:

1.

Petitioner is RANDALL WALCOTT, who is a resident of Fulton County, Georgia.

2.

Petitioner is over 25 years of age, and is now married to the mother of the minor child hereinafter referred to and mentioned. Petitioner is of good character and is financially able to support and educate the minor child hereinafter referred to and mentioned.

3.

Petitioner shows that DARRELL WEBSTER QUILLOIN is a male child born on December 25, 1964 to Leon Quilloin and Ardell Williams in Chatham County, Georgia. The parents of the child were not married at the time. Petitioner desires to adopt said child into his family in accordance with the laws of Georgia.

4.

Petitioner shows that he desires said child be named DARRELL WEBSTER WALCOTT upon adoption; and, further said child owns no property.

5.

The names of the parents of said child are set out in Paragraph 3 hereof. The residence of Leon Quilloin, the father of said child is unknown; his whereabouts being also unknown. The mother of said child is married to the Petitioner and is now Ardell Williams Walcott and she resides at 2766 Dodson Lee Drive, East Point, Fulton County, Georgia. The child has no guardian.

Attached hereto is the consent of the mother to the adoption of said child by your Petitioner. It is not necessary to attach the consent of the father Leon Quilloin to the adoption of said child because he and the mother were not married at the time of the child's birth.

The age of RANDALL WALCOTT is 39 years and his health is good.

Said child is now in the custody of Petitioner and the child's mother. The mother of said child in her consent and acknowledgement of service enters an appearance herein and joins in the prayers of the petition and asks that the Court enter an order of adoption.

WHEREFORE, Petitioner respectfully prays as follows:

1. That the Court consider this petition for adoption on a day certain not less than ninety (90) days from the date of filing of same.

2. That service and notice of said adoption be held in terms of the law unless service is waived in writing, and including service by publication where necessary.

3. That on the date appointed by the Court for a hearing that he be allowed to adopt said child as provided by Section 74-414 of Georgia Code Annotated as amended and the statutes from which said Section is codified, and that the name of said child shall be DARRELL WEBSTER WALCOTT.

4. That Petitioner have such other relief as the court may deem appropriate.

S/

THOMAS F. JONES

Attorney for Petitioner

1154 Citizens Trust Bldg.
75 Piedmont Avenue, N.E.
Atlanta, Georgia 30303
404: 659-2200

CONSENT OF MOTHER AND ACKNOWLEDGEMENT OF SERVICE

GEORGIA, FULTON COUNTY.

I, ARDELL W. WALCOTT, do hereby consent to the adoption of my son DARRELL WEBSTER QUILLOIN, by petitioner.

I acknowledge due and legal service of the petition by said RANDALL WALCOTT to adopt said child and expressly waive any and all other and further service of same, including notice of hearing and the time and place thereof. I enter an appearance in said matter and join in the prayers of the petition and ask that the court grant an order as prayed therein for the adoption of my said child by petitioner. The allegations of the petition are true and are admitted by me; the whereabouts of the father LEON QUILLOIN are unknown and I was not married to him at the time of the said child's birth.

This document is voluntarily executed by me and I fully understand its purport.

This 23rd day of March, 1976.

S/

ARDELL W. WALCOTT

2766 Dodson Lee Drive
East Point, Georgia

ORDER FOR HEARING ON ADOPTION #8466

GEORGIA
FULTON COUNTY

The within and foregoing petition of

RANDALL WALCOTT

petitioners, being presented seeking the adoption of the minor child therein named, said child to be known when adopted as

DARRELL WEBSTER WALCOTT

It is considered, ordered and adjudged by the Court that said application be set down and made returnable before this Court at 9:00 o'clock A.M. on the 23rd day of June 1976. In the meantime, let service be perfected upon the party or parties whose written consent to the adoption is required, unless service of said petition and notice has been, or will be, duly waived in writing. The Clerk is directed within fifteen (15) days from the date of filing of this petition, as by law provided, to forward a conformed copy of the Petition and Order to the proper Department, together with a letter requesting that a complete investigation and report be made, as by law provided.

Any and all persons objecting to the entry of an Order of Final Adoption shall file such objections in writing at least ten (10) days prior to the hereinabove assigned date for hearing. Last date for filing objections is 13th day of June, 1976.

This the 24th day of March, 1976.

S/ _____
JUDGE, SUPERIOR COURT
ATLANTA JUDICIAL CIRCUIT

FINAL ORDER OF ADOPTION #8466

GEORGIA
FULTON COUNTY

It appearing to the Court that heretofore

RANDALL WALCOTT

petitioner, filed in the Office of the Clerk of this Court a petition seeking the adoption of the minor child therein named to be known as

DARRELL WEBSTER WALCOTT

when adopted, and it further appearing that all formalities of law have been complied with and it further

appearing that said proposed adoption is for the best interest of the child, and the Court being satisfied that a final Order of Adoption should be entered;

It is thereupon considered, ordered and adjudged that this Final Order of Adoption be entered and the Court hereby declares said child to be the adopted child of petitioner and capable of inheriting his estate, and that the name of said child shall hereafter be

DARRELL WEBSTER WALCOTT

and that the relation between the said

RANDALL WALCOTT

and the adopted child shall be as to their legal rights and liabilities as parent and child, each having the right or inheritance as provided by law.

It is further ordered, at the election of the adoptive parent, that the place of birth of said child on the new birth certificate shall be shown as Atlanta, Fulton County, Georgia.

This the 12 day of July, 1976.

S/ _____
JUDGE, SUPERIOR COURT
ATLANTA JUDICIAL CIRCUIT

**IN THE SUPERIOR COURT
FOR THE COUNTY OF FULTON
STATE OF GEORGIA**

RANDALL WALCOTT, }
Petitioner,
Ex Parte.

ADOPTION FILE NO.
8466

**OBJECTION TO ADOPTION BY NATURAL
PARENT, LEON WEBSTER QUILLOIN**
—filed May 11, 1976

COMES NOW Leon Webster Quilloin as Objector
and respectfully shows to the Court the following:

1.

That Randall Walcott has filed in this Court an action to adopt the minor child, Darrel W. Quilloin, born December 25, 1964, aged 11, and that said Randall Walcott is apparently married to Ardell Williams Walcott who is the natural mother of said child.

2.

That Objector Leon Webster Quilloin objects to said adoption for the reason that he is the natural and biological father of said Darrel W. Quilloin, and that he has supported and raised said child for approximately one-half of said child's life and does and hereby continually tenders to the natural mother of said child a sufficient amount of support to continue to support said child until he reaches the age of 18.

3.

That said natural child has known and recognized Objector as his biological and natural father, and it is not in the best interest of said natural child that his rights to said child be severed in this adoption action.

WHEREFORE, Objector Leon Webster Quilloin respectfully prays that his objection to this adoption be sustained, and said adoption petition dismissed.

S/ _____
WILLIAM L. SKINNER
Attorney for Objector,
Leon Webster Quilloin

Suite 485
One West Court Square
Decatur, Georgia 30030
(404) 377-0466

**IN THE SUPERIOR COURT
FOR THE COUNTY OF FULTON
STATE OF GEORGIA**

LEON WEBSTER QUILLON,

Plaintiff,

vs.

ARDELL WILLIAMS WALCOTT,

Defendant,

Respondant.

CIVIL ACTION
FILE NO. C 18672

**WRIT OF HABEAS CORPUS ESTABLISHING
VISITATION RIGHTS TO MINOR CHILD
—filed May 11, 1976**

COMES NOW the Plaintiff in the above-styled action and respectfully shows to the Court the following:

1.

That the Plaintiff is the biological father of Darrel W. Quilloin, born December 25, 1964, and that the natural biological mother of said child is Ardell Williams Walcott who resides in Fulton County, Georgia, and is therefore subject to the jurisdiction of this Court.

2.

That the Defendant Ardell Williams Walcott is illegally restraining the Plaintiff from obtaining the partial custody by way of visitation privileges, with the minor child Darrel W. Quilloin, and that it is in the best interest of said Darrel W. Quilloin that partial custody, in the form of visitation privileges, be awarded to said Plaintiff Leon Webster Quilloin.

3.

That Plaintiff Leon Webster Quilloin shows that he has raised and supported his natural and biological child for more than half of said child's life, and he will continue to do so voluntarily or at the direction of this Court.

WHEREFORE, Plaintiff prays that a Writ of Habeas Corpus issue with a Rule Nisi thereon directed to the Defendant, Respondant, Ardell Williams Walcott, requiring her to produce the body of the minor child,

Darrel W. Quilloin before this Court, and that this Court issue an Order specifying visitation rights and partial custody in the Plaintiff, Leon Webster Quilloin, and that Petitioner Leon Webster Quilloin have such other and further relief as the Court deems proper in the premises.

S/ _____
WILLIAM L. SKINNER
Attorney for Plaintiff,
Leon Webster Quilloin

Suite 485
One West Court Square
Decatur, Georgia 30030
(404) 377-0466

C-18672

ORDER

The above and foregoing Application for Writ of Habeas Corpus having been read and considered, the same is hereby ordered filed, and it is further ordered that Ardell Williams Walcott is hereby ordered and commanded to produce the body of Darrel W. Quilloin before this Court and The Honorable Elmo Holt or the presiding judge on the 23rd day of June, 1976 at 9:00 a.m. o'clock and that Ardell Williams Walcott show cause why an Order should not be entered by this Court specifying visitation rights and privileges in the Plaintiff, Leon Webster Quilloin, and thereby awarding him partial custody of said minor child.

This 11th day of May, 1976.

S/ _____
JUDGE, Fulton Superior Court
Atlanta Judicial Circuit

(CERTIFICATE OF SERVICE—omitted in printing)

**IN THE SUPERIOR COURT
FOR THE COUNTY OF FULTON
STATE OF GEORGIA**

LEON WEBSTER QUILLOIN,
Plaintiff,
vs.
ARDELL WILLIAMS WALCOTT,
Defendant,
Respondant.

CIVIL ACTION
FILE NO. C18673

PETITION FOR LEGITIMATION—filed May 11, 1976

COMES NOW the Petitioner in the above-styled action and respectfully shows to the Court the following:

1.

That Petitioner resides within Fulton County, Georgia and is therefore subject to the jurisdiction of this Court pursuant to Ga. Code 74-103.

2.

That Petitioner is the natural biological father of Darrel W. Quilloin born December 25, 1964, aged 11.

3.

That the natural biological mother of said child is Ardell Williams Walcott.

4.

That in the best interest of the child and also pursuant to Ga. Code 74-103, Petitioner requests that he be allowed to legitimate Darrel W. Quilloin so that Darrel W. Quilloin could inherit from him in the future and be considered as his legitimate child, and that the surname of said Darrel W. Quilloin continue as it now appears on said natural child's original birth certificate.

WHEREFORE, Petitioner prays:

(a) That summons issue;

(b) That this Court enter an Order pursuant to Ga. Code 74-103 legitimating said child in accordance with the laws of Georgia, and that said child's name continue to be Darrel W. Quilloin.

S/ WILLIAM L. SKINNER
Attorney for Petitioner

Suite 485
One West Court Square
Decatur, Georgia 30030
(404) 377-0466

ORDER

The above and foregoing action to legitimate a minor child having been read and considered, the same is hereby ordered filed, and it is further ordered that the biological mother of said child, Ardell Williams Walcott show cause before Judge Elmo Holt or the presiding Judge on the 23 day of June 1976, at 9:00 a.m. o'clock why said petition should not be granted as prayed.

This 11th day of May, 1976.

S/ JUDGE, Fulton Superior Court
Atlanta Judicial Circuit

(CERTIFICATE OF SERVICE—omitted in printing)

**IN THE SUPERIOR COURT FOR THE
COUNTY OF FULTON
STATE OF GEORGIA**

Leon Webster Quilloin <i>Plaintiff</i> <i>vs.</i> ARDELL WILLIAM WALCOTT <i>Defendant</i> <i>Respondent in</i> <i>Habeas Corpus</i> <i>Proceedings</i>	}	CIVIL ACTION FILE NO. C-18672
RANDALL WALCOTT <i>Petitioner</i> <i>Ex Parte</i>	}	ADOPTION FILE NO. 8466
LEON WEBSTER QUILLOIN <i>Plaintiff</i> <i>vs.</i> ARDELL WILLIAMS WALCOTT <i>Defendant</i> <i>Respondent in</i> <i>Petition for</i> <i>Legitimation</i>	}	CIVIL ACTION FILE NO. C-18673

AMENDMENT

COMES NOW, Leon Webster Quilloin, and amends each and every pleading filed by him in the above styled actions by the following:

1.

That Georgia Code Section 3028—(Ga. Code of 1933 as amended) Ga. Laws 1943 p. 538 as Amended, Ga Code 74-203, which states: (Ga. Laws 1856 as amended.)

“Mother’s rights
the mother of an illegitimate child shall be entitled to the possession of the child unless the father shall legitimate him as before provided. Being the only recognized parent, she may, exercise all the parental power.”

is unconstitutional, as or if applied by this Court to the above styled action, in that an application of said

law to the natural father, Leon Webster Quilloin, would violate his right to equal protection of the laws and would therefore be in violation of the 14th Amendment to the United States Constitution in that he would be denied the same rights given to the natural parents and fathers of minor children merely because he was never married to the natural mother; and he would be denied due process of the law by being denied the right to assert his fitness as a parent to have partial custody of said child in the form of visitation privileges or rights with said child in violation of the Due Process Claim of the 14th Amendment to the United States Constitution

WHEREFORE, Leon Webster Quilloin, prays that this amendment be allowed and that he have the relief originally prayed for.

S/ _____
WILLIAM L. SKINNER
 Attorney for Leon Webster Quillon

Service of the above amendment is hereby acknowledged.

S/ _____
THOS F. JONES
 Attorney for Ardell Walcott
 and Randall Walcott

ORDER

The above and foregoing amendment having been read and entered the same is hereby allowed and Ordered filed subject to objection.

This 23 day of June 1976.

S/ _____
JUDGE, Fulton Superior Court

**IN THE SUPERIOR COURT
FOR THE COUNTY OF FULTON
STATE OF GEORGIA**

LEON WEBSTER QUILLOIN,
Plaintiff,

vs.

ARDELL WILLIAMS WALCOTT,
*Defendant,
Respondant in
Habeas Corpus
Proceedings.*

CIVIL ACTION
FILE NO. C-18672

RANDALL WALCOTT,
*Petitioner,
Ex Parte.*

ADOPTION FILE NO.
8466

LEON WEBSTER QUILLOIN,
Plaintiff,
vs.

ARDELL WILLIAMS WALCOTT,
*Defendant,
Respondant in
Petition for
Legitimation.*

CIVIL ACTION
FILE NO. C-18673

**LEON WEBSTER QUILLOIN'S
SECOND AMENDMENT TO
THE ABOVE-STYLED ACTIONS
—filed June 30, 1976**

COMES NOW Leon Webster Quilloin and amends each and every pleading hereinbefore filed by him in the above-styled actions by the following:

1.

That Georgia Laws of 1941, Page 300, as amended, Ga. Code §74-403(3) which states:

“Illegitimate children.—If the child be illegitimate, the consent of the mother alone shall suffice”.

is unconstitutional as or if applied by this Court to the above-styled action, in that an application of this portion of Georgia Laws of 1941, Page 300, as amended, Ga. Code §74-403(3) to the natural father, Leon Webster

Quilloin, would violate his right to due process of the law and equal protection of the law and would therefore, be in violation of the Fourteenth Amendment to the United States Constitution in that he would be denied the same rights given to other biological parents of minor children in and to said children merely because he has never legally contracted a marriage with the biological mother of said child or children, and said Leon Webster Quilloin would be denied due process of the law as guaranteed by the Fourteenth Amendment to the United States Constitution by therefore, being denied the right to assert his fitness as a parent to have the partial custody of his biological child in the form of visitation rights with said child all in violation of the due process clause and the equal protection clause of the Fourteenth Amendment to the United States Constitution and to classify all unwed fathers as unfit parents as a matter of law, would amount to a State created classification not based upon reason generally, or in particular, as applied in this case in violation of the equal protection clause of the Fourteenth Amendment to the United States Constitution.

2.

That for the reasons before stated, there exists between the parties to this action a justiciable controversy that requires the entry by this Court of a declaratory judgment.

3.

That for the reasons before stated, this action brings in controversy the constitutionality of Georgia Statutes and therefore, the Attorney General for the State of Georgia should be served with this action and allowed to intervene.

4.

That for the reasons before stated, Leon Webster Quilloin has no complete and adequate remedy at law unless this Court enjoin the biological mother, Ardell Williams Walcott and the step-parent, Randall Walcott, from proceeding in the above-styled actions. That unless said injunction is entered, said Leon Webster Quilloin will suffer irreparable harm in that he will be denied future visitation rights and companionship with his minor child, Darrell W. Quilloin.

WHEREFORE, Leon Webster Quilloin prays:

(a) That this Amendment be allowed subject to objection;

(b) That a declaratory judgment issue declaring that portion of Georgia Laws 1941, Page 300, as amended, Ga. Code §74-403(3) which states:

"Illegitimate children.—If the child be illegitimate, the consent of the mother alone shall suffice". . .

unconstitutional and repugnant to the due process clause and the equal protection clause of the Fourteenth Amendment to the United States Constitution;

(c) That this Court enter an injunction enjoining Randall Walcott and Ardell Williams Walcott from proceeding under Georgia Laws 1941, Page 300, as amended, Ga. Code §74-403(3) and Ga. Code §74-203, Georgia Code 1933, (3028);

(d) That this Court enter a declaratory judgment declaring that portion of Ga. Code §74-203, Georgia Code 1933, (3028) which states:

"Mother's rights—The mother of an illegitimate child shall be entitled to the possession of the child, unless the father shall legitimate him as before provided. Being the only recognized parent, she may exercise all the paternal power."

unconstitutional and repugnant to the due process clause and the equal protection clause of the Fourteenth Amendment to the United States Constitution;

(e) That the Attorney General for the State of Georgia be served with this Amendment and the preceding pleadings in this action in that a Statute of the State of Georgia is constitutionally questioned pursuant to Ga. Code §110-1106, Georgia Laws 1945, Page 137, as amended.

S/ _____
WILLIAM L. SKINNER
Attorney for Leon Webster Quilloin

Suite 485
One West Court Square
Decatur, Georgia 30030
(404) 377-0466

IN THE SUPERIOR COURT
FOR THE COUNTY OF FULTON
STATE OF GEORGIA

LEON WEBSTER QUILLOIN, <i>Plaintiff,</i>	}	CIVIL ACTION FILE NO. C-18672
<i>vs.</i>		
ARDELL WILLIAMS WALCOTT, <i>Defendant,</i>	}	ADOPTION FILE NO. 8466
<i>Respondant in</i>		
<i>Habeas Corpus</i>		
<i>Proceedings</i>		
RANDALL WALCOTT, <i>Petitioner,</i>	}	ADOPTION FILE NO. 8466
<i>Ex Parte.</i>		
LEON WEBSTER QUILLOIN, <i>Plaintiff,</i>	}	CIVIL ACTION FILE NO. C-18673
<i>vs.</i>		
ARDELL WILLIAMS WALCOTT, <i>Defendant,</i>	}	CIVIL ACTION FILE NO. C-18673
<i>Respondant in</i>		
<i>Petition for</i>		
<i>Legitimation.</i>		

ORDER

The above and foregoing Amendment having been read and considered, the same is hereby allowed and ordered filed subject to objection.

This 30 day of June, 1976.

S/ _____
ELMO HOLT, Judge
Fulton Superior Court
Atlanta Judicial Circuit

**IN THE SUPERIOR COURT
OF FULTON COUNTY
STATE OF GEORGIA**

TRANSCRIPT OF HEARING—June 23, 1976

RANDALL L. WALCOTT

having first been duly sworn as a witness testified as follows:

DIRECT EXAMINATION

BY MR. JONES:

Q Would you state your name for the record, please.

A Randall Walcott.

Q What is your age, Mr. Walcott?

A Thirty-nine.

Q Are you presently married to Ardell Walcott?

A Yes, sir.

Q How long have you been married to Ms. Walcott?

A September 16, 1967.

Q Did Ms. Walcott have a child when you were married to her?

A Yes.

Q What's the name of the child?

A Darrell Webster Quilloin.

Q What is the child's present age?

A Be twelve this December.

Q Do you desire to adopt Darrell at this time?

MR. SKINNER: May I stop for one minute, Your Honor. Is Darrell here today?

THE COURT: You mean the child?

MR. SKINNER: Child. I had filed a habeas corpus, Judge, which I think requires the child to be brought in.

THE COURT: I think so.

MR. JONES: The child is not here.

MR. SKINNER: I would want Your Honor to hear from the child.

MR. JONES: The child is under fourteen.

THE COURT: Well, the habeas corpus required, I understand that the child be produced. I don't know where the pleadings—

I think the order of May 11 did require you to produce the child in court today, signed by Judge Andrews.

MR. SKINNER: Judge, we would definitely want you to hear from the child because I think that might be good probative evidence. The child is eleven and capable of testifying, I think.

MR. JONES: Your Honor, I would apologize to the Court for the oversight. The child is not here at this time. I was under the impression since the child was under fourteen, his presence would not be required.

THE COURT: Consent is not required, but production of his body is required under the order of the Court.

MR. SKINNER: Your Honor, I have no objection to continuing this case where the child can be brought in. We have witnesses all the way from Savannah.

THE COURT: You want to suspend while they go get the child and bring him up here?

MR. SKINNER: Yes.

THE COURT: All right, I will go on and, it's ten o'clock, and take up the calendar and get as far as I can with that.

MR. JONES: Your Honor, would it be possible to get as far as we could right now.

MR. SKINNER: I have no objection.

MR. JONES: I'm afraid it will be a lengthy proceeding and we go get Mr. and Ms. Walcott, at least have their testimony.

THE COURT: Go ahead.

BY MR. JONES:

Q Do you desire to adopt Darrell at this time?

A Yes.

Q How long has Darrell lived with you and Ms. Walcott?

A Since '69.

Q Since 1969?

A Yes, sir.

BY THE COURT:

Q You were married in '67?

A Yes.

BY MR. JONES:

Q Mr. Walcott, where are you employed?

A Eastern Airlines.

Q What is your position?

A Aircraft service.

Q What is your pay?

- A \$233 a week.
 Q Ms. Walcott also employed?
 A Yes.
 Q In your opinion, is this income adequate to support and educate Darrell?
 A Yes.
 Q Do you desire Darrell have your last name?
 A Yes.
 Q In the time that Darrell has lived with you, have you had an opportunity to help in raising the child?
 A Yes, sir.
 Q What sort of activities have you and he engaged in?
 A The Little League baseball, basketball, pro sports.
 Q Does the family attend church regularly?
 A Yes.
 Q Mr. Walcott, are you in good health?
 A Yes.
 MR. JONES: That is all I would have from Mr. Walcott.
 THE COURT: Any cross-examination?
 MR. SKINNER: Yes.

* * * * *

CROSS-EXAMINATION

BY MR. SKINNER:

- Q You say you were married in 1967?
 A Yes.
 Q But the child didn't live with you until 1969?
 A Yes.
 Q Where was he living?
 A Savannah.
 Q With who?
 A His grandmother.
 Q Was that the paternal or maternal grandmother?
 A I didn't understand your question.
 Q Was it her mother?
 A Her mother.
 Q Is that Ms. Smith?
 A Yes.
 Q Is she here today?
 A Yes.
 Q Okay. Why did the child not live with you until 1969, and was it by choice or did the child prefer to

- stay in Savannah during that time?
 A He was staying with his grandmother and we decided to send for him and bring him up and live with us.
 Q In '69?
 A Yes.
 MR. SKINNER: That is all I have.
 THE COURT: All right.

* * * * *

ARDELL WILLIAMS WALCOTT

having been duly sworn as a witness testified as follows:

DIRECT EXAMINATION

BY MR. JONES:

- Q Ms. Walcott, I remind you you are under oath. Would you state your name.
 A Ardell Walcott.
 Q Are you presently married to Randall Walcott?
 A Yes.
 Q How long have you been married?
 A Since 1967.
 Q Are you the mother of Darrell Webster?
 A Yes.
 Q What was his date of birth?
 A December 25, 1964.
 Q Where was he born?
 A Savannah.
 Q Who is the child's biological father?
 A Leon Quilloin.
 Q Were you married to Mr. Quilloin at the time of the child's birth?
 A No.
 Q Were you married to him at any other time?
 A No.
 Q Has Mr. Quilloin ever supported Darrell?
 A No.
 Q Has he ever provided anything of a material nature for Darrell?
 A Yes, he has.
 Q Sort of explain to the Court.
 A Holidays, birthdays, birthdays give him gifts on

several other occasions but no specific support.

- Q Has Mr. Quilloin visited Darrell on a regular basis?
 A Not a regular basis. He's seen him on occasions but it was not regular.
 Q Could you give us some idea about how often and a little more information about these visits?
 A Well, after Darrell came to live with us, Darrell would go to visit with my mother during the summer and he would see him at that time. And he even seen him at Christmas on several occasions.
 Q Ms. Walcott, do you consent to this adoption and you have signed papers to that effect?
 A Yes.
 Q Has Mr. Quilloin ever attempted to obtain visitation privilege prior to this time?
 A No.
 Q As far as you know, has he ever attempted to legitimate the child?
 A No.
 Q Let's sort of go into where Darrell has lived from the time he was born up to the present.
 A Okay. He lived with my mother until he came to live with us in New York after we got married.
 Q And during this time did you support the child?
 A Yes, I did.
 Q In what amount?
 A Well, regular payments. I used to send her money weekly, you know, I don't know exact amount.
 MR. JONES: That is all I have.

* * * * *

CROSS-EXAMINATION

BY MR. SKINNER:

- Q When Darrell was born, Ms. Walcott, your name was Williams, was it not? Ardell Williams?
 A Yes.
 Q Where were you living when Darrell was born?
 A With my mother.
 Q Is that Ms. Willie Mae Smith?
 A Yes.
 Q Okay. And approximately when was it in Darrell's age classification when you moved to New York?
 A He was a year old.

- Q And you moved to New York and left him in Savannah?
 A With my mother, yes.
 Q Okay. All right, during Darrell's first year of life, did Mr. Quilloin help out with medical expenses and so forth for Darrell?
 A Yes, he helped out.
 Q Did he take him to the doctor?
 A Yes, I would say he did, yes.
 Q And is it or is it not true at one time Mr. Quilloin set you up in a business, kind of a convenience store?
 MR. JONES: Your Honor, I object to that as being irrelevant to the issues.
 THE COURT: What's the relevancy?
 MR. SKINNER: Your Honor, I think it would link up, I think the relevancy as I would expect to prove is that he set her up in business of approximately a thousand dollars and told her to give fifteen dollars per week from that business to care for Darrell.
 THE COURT: Ask her that question.
 THE WITNESS: That is not true. He set me up in business, but there was no stipulation I wasn't, in fact, there wasn't enough profit from the business to buy myself anything or to buy the child milk or anything. There was just not enough profit.
 BY MR. SKINNER:
 Q You didn't give your mother anything out of that business?
 A There was just nothing to give.
 Q And he didn't tell you to give her anything?
 A No, he did not.
 Q Did you give your mother milk, food, et cetera, for the child?
 A He occasionally gave milk, yes. Food, I can't specifically say he gave any food, no.
 Q Okay. All right, during the time that Darrell was a child, do you know who Mabel Dawson is?
 A Yes.
 Q Who?
 A Leon's mother.
 Q During the time that Darrell was a child, did Mabel Dawson care for Darrell some parts of his life?
 A He would visit her, but I would not say that she

cared for him on a regular basis.

Q How often would he visit her?

A Well, there was no specific amount of time. He'd go, I couldn't even say. It wasn't a weekly thing if that is what you mean. It wasn't a regular type thing. He just go sporadically; was just not any set time.

Q Did Darrell, to your knowledge, spend any time with Mr. Quilloin when he was a baby?

A Yes, he spent time with him.

Q Did he spend quite a good deal of time?

A What do you mean?

Q About fifty or sixty percent of his time.

A No.

Q During the time that you were in New York, did you send money back to your mother?

A Yes.

Q How much did you send?

A Well, I was making about, I guess about sixty-five dollars a week, and I would say approximately fifteen or so dollars. I can't be specific because I don't remember.

Q How often did you come back from New York to see Darrell?

A When I first left I was back there in six months after I got my first vacation, and I was back there, I would guess every six months, nine months until I came and picked him up to go live with me.

Q Did you take Darrell at any time to live with you in New York?

A Yes, I did.

MR. JONES: Your Honor, I hate to break in, but I don't really understand the connection of this line of questioning with the issues that we have before us.

MR. SKINNER: I hope to connect it.

THE COURT: He says he will connect it. I don't know.

BY MR. SKINNER:

Q Did Mr. Quilloin come to New York to pick up Darrell at your request?

A Not at my request, no.

Q Tell us what happened about him coming to New York.

A I was working at the telephone company and one day I got a call, and when I came back I returned

the call. It was him. And he said he found out where I had been working and that he knew where I lived and that he was coming to get Darrell. And at the time, one of the main reasons my leaving Savannah was I was afraid of him. I really was afraid of him. When he called and told me where, he found out where I was working and where I lived, I was still afraid of him. And he showed up one day at our apartment. And he came with some other fellows, some guys who I had seen in Savannah before. He said that he had come to get Darrell. Okay. I was still frightened and I called my mother and I discussed it with her. And he promised me he would be taking the child back to my mother, which he did. And he drove back and he took the child.

Q You let him have the child to take back to your mother, is that what you are saying?

A Yes.

Q Back to Savannah.

A Exactly.

Q How many people were living in your apartment at that time in New York?

A Three.

Q Three?

A Uh huh.

Q Was it efficiency, one room apartment?

A It was not.

Q It was not?

A Huh uh.

MR. JONES: Your Honor, once again, I don't understand the relevance of this question.

MR. SKINNER: Your Honor, direct examination of my client it would be relevant as to why the child was brought back from New York and I think it would be connected.

THE COURT: What are you attempting to show that the mother is unfit?

MR. SKINNER: No.

THE COURT: What are you trying to show?

MR. SKINNER: As to why, it would be our contention that the reason that Ms. Walcott did not object to the child coming back is they were living in cramped conditions in New York at that time.

THE COURT: Why don't you ask her that

question—did you consent because you were living in cramped quarters.

BY MR. SKINNER:

Q Did you?

A No, I did not.

THE COURT: As I understand it, said she didn't consent. Said she was afraid of him. Isn't that what her testimony is?

MR. SKINNER: Yes.

THE WITNESS: Uh huh.

BY MR. SKINNER:

Q And you say Mr. Quilloin brought the child back and let the child live with the maternal grandmother?

A Yes.

Q And the child did not part-time live with him and the, and his mother, Ms. Dawson?

A No, he would visit her and he would spend the night but he did not spend any great amount of time with her.

Q Is it not true then that the child stayed in Savannah with you in New York until it was about five years old?

A No, he started school when he was five. He started elementary school when he was five. And he came to live with us, I guess just as he was five, right after his birthday.

Q Isn't it true Mr. Quilloin enrolled this child in the St. Mary's School in Savannah?

A Yes.

Q What is St. Mary's School?

A It's a kindergarten.

Q Well, he went to kindergarten, I don't know what kind of school.

Q This is result Mr. Quilloin enrolling and paying the tuition?

A He did send the child to kindergarten.

Q For the entire year?

A Yes.

Q And is it not true that Mr. Quilloin personally picked up the child and took him to school during that time?

A No, he went by taxi.

Q You don't know, you were not in Savannah.

A I know he didn't pick him up.

Q Is it not true the end of the summer vacation period after the kindergarten year of the child, that Mr. Quilloin called and asked if the child was coming back?

A I don't remember if it was the end of that. I just can't remember. I can't say.

Q Okay. Did Mr. Quilloin know, after he took the child back that summer, did Mr. Quilloin know where you were living or do you know?

A When we were living in New York?

Q Yes.

A I really don't know.

Q Did you come back to Savannah with your new husband when the child was approximately seven and a half years old?

A We visited Savannah. I don't know how old the child was.

Q At that time did Mr. Quilloin ask you then if he could have some visitation rights with the child?

A We did not even see him when he was down there.

Q When, in point of time after this, then did you see Mr. Quilloin, do you recall?

A I don't remember.

Q When did Mr. Quilloin start visiting with or being with the child? Can you just give it in chronological age of the child?

A Maybe the summer when he was six.

Q When he was six?

A Yes, I would say. Maybe the summer when he was seven.

Q That would be the summer the child would be spending the summer with your mother?

A With my mother.

Q Okay. Did Mr. Quilloin attempt to give the child clothes and toys and things during this time?

A Yes.

Q Did he in fact give him clothes and toys?

A He did.

THE COURT: During what time?

BY MR. SKINNER:

Q When the child was say six to eight?

A Uh huh, yes.

Q When the child was nine, did Mr., had you moved then to Atlanta?

- A We moved to Atlanta in '73, so I guess he was about eight.
- Q Eight?
- A Yes.
- Q Okay. All right. Did you place the child on an airplane and fly him to Savannah for Mr. Quilloin to visit with him when he was eight or nine?
- A I cannot definitely say. He's been on a plane before. I would not have sent him directly to him, no. Now, I can't say I have never put him on a plane to go to Savannah.
- Q Did the child by himself fly to Savannah during this period, can you recall that?
- A He has flown before alone. Now, whether it was that period of time or when it was, I cannot say. I don't remember.
- Q Where has he flown from and to that you recall?
- A He's flown from, I honestly cannot say because I don't remember.
- Q Did Mr. Quilloin pay for these flights?
- A My husband works for the airline. To specifically say that he, he's never sent us any money to buy a ticket. Now, I honestly, I don't remember the incident that you are speaking of. Now, if, maybe you can refresh my memory with something else.
- Q Was there a time say on Easter vacation Mr. Quilloin purchased a ticket and allowed the child to fly to Savannah to be with him?
- A Maybe if you ask my husband if he remembers. I don't remember offhand.
- Q Did Mr. Quilloin ship a 10-speed bicycle up to Atlanta?
- A Yes, he did.
- Q Did you and your present husband pick that bicycle up for Darrell?
- A We did.
- Q Isn't it true when the child was ten and a half last summer, that Darrell stayed in Savannah with Ms. Dawson for three weeks to a month, now this is the past summer 1975.
- A Okay, I'm trying to remember because my mother was here last summer.
- Q She was living in Atlanta?
- A She was living in Atlanta last summer with us.

- Q I'm speaking of Ms. Dawson.
- A I know, I'm trying to remember, because usually he would go to Savannah and live with my mother and he would visit with Ms. Dawson. What I'm trying to remember if he went to Savannah to stay last summer. I don't think so, because my sister's kids were here last summer and I really don't know.
- Q Was Darrell at home all last summer of 1975?
- A Yes.
- Q Never went anywhere?
- A Not as far as I can remember.
- Q Were you working in the summer of 1975?
- A I was.
- Q Where were you working?
- A C & S Bank.
- Q Who cared for Darrell while you were working?
- A My mother.
- Q That is Willie Mae Smith?
- A Uh huh.
- Q When was it that you told Mr. Quilloin that you would no longer allow him to see Darrell?
- A He called me one day at work and he said something about, this was recently, you know, what about visitation rights. He just point blank said that. And so I said, you know, there won't be any.
- Q Was that in March '76?
- A Possibly.
- Q Why did you decide at that point to stop allowing Mr. Quilloin to see Darrell?
- A Well, Darrell is, he is well-adjusted, you know, he's not a perfect child, nothing is perfect. But everything is fine. I mean he gets along fine with my husband. We have a good family life. We do things together and it's just disrupted when he leaves to go and come back. You know, if he has to readjust, and it just doesn't seem to be a good situation when he returns.
- Q When Darrell saw Mr. Quilloin in say the summer of '75, did Darrell come back and tell you that he wanted to live with Mr. Quilloin?
- A Darrell has never told me he wanted to live with Mr. Quilloin. And I don't remember if he saw him in the summer of '75.
- THE COURT: I'm going to have to interrupt this

proceeding. I will resume later. Does anybody have any objection to my going ahead and calling this calendar while you are going for the child?

MR. JONES: No.

MR. SKINNER: No.

THE COURT: All right.

(Recess.)

THE COURT: All right, go ahead. I believe you were cross-examining the mother.

MR. SKINNER: Yes, Your Honor.

BY MR. SKINNER:

Q Ms. Walcott, how old is Darrell now?

A Eleven.

BY THE COURT:

Q What?

A Eleven.

BY MR. SKINNER:

Q Ms. Walcott, you don't contend that Darrell has ever been abandoned by you, do you?

A No, I don't.

Q You don't contend that anytime during Darrell's life was he ever left without support, food?

A No.

Q Or anything?

A No.

Q Is that right?

A Yes.

Q And Darrell has always been provided for by someone?

A Yes.

Q Is that true?

A Right.

Q So, he's never been abandoned?

A No.

Q By you or anyone else?

A No.

MR. JONES: I'd like to object to that. I think that question could be considered to call for legal conclusion. Ms. Walcott is not really qualified to answer that question.

THE COURT: What do you say?

MR. SKINNER: Your Honor, my question is has Darrell ever been left without necessities? And she says no.

THE COURT: You say that is an improper question?

MR. JONES: No, I think part of that question was whether Darrell had been abandoned by anybody.

THE COURT: That is a legal conclusion and I will sustain objection to that. But let stand the question whether he's ever been without necessities.

MR. SKINNER: All right.

BY MR. SKINNER:

Q Your answer was that he was never without necessities, support, clothes, food, shelter, et cetera?

A No.

Q When you found that you was expecting Darrell prior to his birth, was an abortion discussed with anybody?

A Yes.

Q Who was it discussed with?

A Mr. Quilloin.

Q Is it not true abortion was decided against by Mr. Quilloin?

MR. JONES: Your Honor, I can't see the relevance of this at this time.

THE COURT: What's the relevance?

MR. SKINNER: Your Honor, I think shows continued interest of Mr. Quilloin and the child. He wouldn't approve of the abortion.

THE COURT: What right under the law does he acquire by having an interest in the child?

MR. SKINNER: I think the same rights as if he had been married to her.

THE COURT: Have you got any case law?

MR. SKINNER: I think if you read close reading of Stanley vs. Illinois says that is the law.

THE COURT: That may be the law of that case. Is that an Ohio case or Illinois?

MR. SKINNER: Well, United States Supreme Court case, Your Honor. The law in that case, basically held that the question that was asked in that case is a presumption distinguished and burdens all unwed fathers constitutionally repugnant and of course they went on to find that it was. And the rationale, with the full reading of the case it says like the rationale contained about the third or fourth page of the decision to say equal protection should be the legal rather than the

biological relationship is to avoid the issue. For the equal protection clause necessarily limits the authority of the State to draw such legal lines as it chooses.

THE COURT: As I understand that case, what that case says or stands for is that the father has a right to be heard. Has a right to a hearing to establish whatever right he may have under the law. And that is the purpose for this hearing right now. I'm hearing for that purpose. Give him an opportunity to establish on the record what rights he has. And I have a completely open mind on it. But we are not dealing with an aborted child. We are dealing with a relative eleven-year-old child today.

MR. SKINNER: Your Honor, I won't proceed on that any further. I was trying to show this man's continued interest in this child even prior to its birth. He wanted the child and that was the only reason that I thought that that would be relevant, just to show his continued interest in the child.

THE COURT: Can't he testify to that?

MR. SKINNER: I think he can. And I won't proceed any further with her if that is Your Honor's decision.

BY MR. SKINNER

Q Ms. Walcott, have you and your present husband ever discussed a divorce?

A No, we haven't.

MR. JONES: Your Honor, once again, I would have to object.

THE COURT: What's the relevancy of that?

MR. SKINNER: Well, she says they hadn't and therefore it's not going to be relevant. But if they had discussed divorce, if they have had marital discord, that may affect the approval or disapproval of the adoption, it seems to me whether or not they have got marital disorders today.

THE COURT: And the evidence is she stopped the visitation rights that your client was exercising in order not to disrupt the present marriage, not to disrupt the present household.

MR. SKINNER: Well, I won't proceed on that line.

THE COURT: All right, go ahead.

BY MR. SKINNER:

Q Then, is it true that you feel that it would not be in

the best interest of Darrell to be seeing Mr. Quilloin?

A That's right.

Q And why do you feel that way?

A I feel that he's happy, well-adjusted little boy now. And we are all doing things together. And to have it disrupted by him, being separated from his brother and his family, and then coming back and having to readjust and that type thing is just not good for him.

Q Are you saying that Mr. Quilloin and his family kind of spoil the boy, is that what you are saying?

A Well, not necessarily because he's been, they have had a hand at spoiling, all grandparents do. But not necessarily, it's just, just disrupts the whole family life when he leaves and comes back.

Q When he leaves and comes back?

A Uh huh.

Q Tell us how does it disrupt the family life if you would specifically, please.

A Well, the child is gone and his brother is seven years old. And he wants to know where his brother has gone. How come he can't be there with him. And then Darrell comes back. And then, you know, he's discussing all the material things that he could very well have had, you know, mini bikes.

Q You mean discussing the things that he got from Mr. Quilloin?

A Not necessarily got, but possibly could get. And, you know, I think the things that we provide for him are the things that he needs and he gets what he needs and a lot of things that he wants. But I think that that is enough for him. I don't think that he needs anything from the outside. I think he's happy with what he gets.

Q Are you saying then that what he receives from Mr. Quilloin kind of creates an overbalance where he's receiving more material things than the seven-year-old?

A That is an aspect.

Q And you feel that is not good for seven-year-old?

A It's not good for either one of them.

Q Ms. Walcott, you don't contend that Mr. Quilloin is a person of bad character, do you?

- A I don't have any judgment on his character.
BY THE COURT:
 Q What's that?
 A I don't have any judgment on his character.
BY MR. SKINNER:
 Q You don't have any contention one way or the other as to that?
 A No.
 Q Did Mr. Quilloin try to give some Christmas presents to Darrell in 1975, this past December?
 A Yes.
 Q What happened as a result of him trying to give the gifts? Did Darrell get them?
 A No, he didn't.
 Q Why?
 A My husband and I decided it wasn't necessary. He had gotten Christmas gifts from us, just didn't want him to have them.
 Q You and your husband decided that he shouldn't have the Christmas presents that Mr. Quilloin tried to give to him?
 A Yes.
 Q Was that again because you thought it might be an overbalanced situation that would affect the seven-year-old?
 A That was one aspect, yes.
 Q What happened to the Christmas presents?
 A I have never seen them. I don't know.
 Q How do you know that they were tendered?
 A He told that they were.
 Q You do not contest the fact that he is the biological father, do you?
 A No.
 Q Do you object to him legitimating the child so the child could inherit from him?
 A Yes.
 Q Why do you object to that, Ms. Walcott?
 A Just like I said, I just feel that he is getting what he needs and what he wants and he's happy, why complicate it. You know, he's happy. We just want a complete family with no disruptions, just a complete family, you know, that type of thing.
 Q And you would not want Darrell to have the material things that Mr. Quilloin could give him?

- A No, I don't.
MR. SKINNER: That is all I have.
THE COURT: Anything further?
MR. JONES: Your Honor, I'd like to clear up a few things.

* * * * *

REDIRECT EXAMINATION

BY MR. JONES:

- Q Ms. Walcott, I think you mentioned at sometime in the past Mr. Quilloin had provided for, been responsible for some medical care for Darrell?
 A Yes.
 Q Would you say that that is the majority of the medical care that Darrell has received since birth?
 A When Darrell was three months old he had a hernia operation and he paid, you know, the medical bills for that.
 Q When was the last time Mr. Quilloin provided some medical care for him?
 A I guess at that time.
 Q When?
 A Three years old.
 Q I think you mentioned this morning Mr. Quilloin in the past provided some clothes for Darrell.
 A Yes.
 Q Has he provided the majority of the clothes that Darrell has?
 A No.
MR. JONES: That is all I have.

* * * * *

RECROSS-EXAMINATION

BY MR. SKINNER:

- Q Ms. Walcott, I will hand you Plaintiff's Exhibit P-1 and ask you if this is not the hospital report from that hernia operation that you've just spoken of?
 A I would suppose. Well, Dr. Collier was the doctor.
 Q Is that right?
 A Yes.
 Q Is he the one that operated on him?

- A No, he didn't operate but he was one of the doctors.
- Q Okay. Ms. Walcott, I am going to hand you a collective Exhibit P-2 and ask you if you will examine these photographs, please.
- A Uh huh.
- Q Okay. Is it not true that these photographs are of Darrell?
- A They are.
- Q How old was he then?
- A I can just guess. I guess he was about one and a half, about two I guess.
- Q Okay. Do you recognize some of the other people in these photographs?
- A Some of them.
- Q Are these either mutual friends or friends of Mr. Quilloin or relatives?
- A Well, I saw his brother on there, friend of his. This is in my mother's house. Looks like his brother there. And this is my mother's front yard.
- Q Not all of those pictures taken at your mother's house?
- A No, I specified.
- Q Two of them. How many of them were taken at your mother's house or front yard?
- A I'm not sure. This one looks like it may be but this one definitely, and maybe that one and this one.
- Q Okay. Has Darrell ever been known to go by the nickname known as say Slooppy?
- A Yes, but I didn't give it to him.
- Q You didn't?
- A No.
- Q Do you know who gave it?
- A Probably Leon.
- Q Okay. Was he called Slooppy by a lot of his friends?
- MR. JONES: Your Honor, I have objection. I can't see the relevancy.
- THE COURT: What's the relevancy?
- MR. SKINNER: I think it shows the close relationship between the father and son. Nickname given by the father held on to him.
- THE WITNESS: It's not held on.
- MR. JONES: I think we are talking about things that happened very long time ago.
- THE COURT: I think that's correct.

- MR. SKINNER: Your Honor sustain objection to the relevancy?
- THE COURT: What his nickname was?
- MR. SKINNER: Yes, sir.
- THE COURT: Yes, I sustain the objection.
- BY MR. SKINNER:
- Q Now, you state that Darrell did not spend any time at all this past summer in Savannah?
- A I told you that I couldn't remember specifically.
- Q You are not saying he didn't. You are just saying you don't remember?
- A Right. I do not remember exactly.
- MR. SKINNER: That is all I have.
- THE COURT: Anything else?
- MR. JONES: Yes, Your Honor, we'd like to call Ms. Smith.

* * * * *

WILLIE MAE SMITH

having first been duly sworn as a witness testified as follows:

DIRECT EXAMINATION

- BY MR. JONES:
- Q Would you state your name, please.
- A Willie Mae Smith.
- Q Are you related to Ardell Walcott?
- A My daughter.
- BY THE COURT:
- Q What was your answer?
- A My daughter.
- BY MR. JONES:
- Q What is your address?
- A 1001 Carter Street, Savannah, Georgia.
- Q You're familiar with Darrell Quilloin?
- A Yes, really, uh huh.
- Q Did Darrell live with you for a period of time after his birth?
- A Yes, sir.
- Q How long was this?
- A Up until about, he was five years old, he was living with me until kindergarten.

Q During this time did Mr. Quilloin provide regular support for Darrell?

A No, he didn't, you know, support him like, you know, he didn't support him.

Q Did he provide anything?

A At times.

Q Would you say these were very irregular?

MR. SKINNER: Your Honor, that is calling for a conclusion.

THE WITNESS: Not regular.

MR. SKINNER: What's irregular and what's regular?

THE COURT: If you are going into it, what—

BY MR. JONES:

Q What did he do, just tell the Court in your own words exactly what support Mr. Quilloin did provide during that period.

A Well, at times give me about fifteen dollars. That was the highest I would get. But it wasn't week, it wasn't every month.

Q Could you give us just some idea about how many times total during that period?

A Huh uh, because always when I need it, you know, I write her.

Q How was Darrell supported during this time?

A By his mother.

Q Did she send payments from New York?

A Every week.

Q Did you contribute to some funds for Darrell?

A Yes.

Q During the period that Darrell was living with you, did Mr. Quilloin visit on a regular basis?

A Sometimes visit him, come and get him and keep him about a day and then bring him back.

Q Could you tell the Court about how frequent these visits were?

A When he have time. I mean, you know, he was a busy man and he doesn't have time. And his mother was sickly, said she wasn't able to keep a little child regular.

MR. JONES: That is all I have, Your Honor.

* * * * *

CROSS-EXAMINATION

BY MR. SKINNER:

Q Were you living in Savannah in the summer of '75?

A No, I was here.

Q Were you living in Atlanta then?

A Yes.

Q Is it not true that during the summer of '75 that Darrell went to Savannah for either two or three weeks?

A He went there for two weeks because he went there to stay, you know, but when I went and picked him up it was time for school.

Q He did spend some time this past summer in Savannah, is that right?

A Yes.

When I went there he was to my daughter's house.

Q But I mean he spent some of the time there with Mabel Dawson and Mr. Quilloin?

A Yes. But when I got there he was with my daughter.

Q Who is your daughter?

A Barbara Richardson.

Q And the purpose of Darrell going last summer was to visit with his paternal grandmother, Ms. Dawson, and Mr. Quilloin, wasn't it, would you answer?

A Yes.

Q Ms. Smith, was your daughter ever set up in business by Mr. Quilloin?

A She had a little confessionary.

Q And you knew that he paid the money for that, didn't you, to set it up?

A Yes.

Q Did you ever get any money out of that business?

A She was in Savannah then. She hadn't left Savannah, and she took care of the child then herself.

Q Did she give you any money out of that business to help support Darrell?

A She ain't made nothing to give me too much.

Q Isn't it not true that most of the time that Mr. Quilloin would bring over milk and things for Darrell?

A Milk?

Q Yes.

A No.

Q He never brought any milk or anything over there

for Darrell when he was a baby?

A Not as I knows of.

Q Did Mr. Quilloin take Darrell to the doctor?

A Yes, he would take him to the doctor if he needed to go.

Q Okay. How would he go to the doctor, would you call him and tell him he was sick and needed to go or what would you do?

A I would mostly take Darrell to the doctor.

Q But you know that Mr. Quilloin took him a good bit of the time, don't you?

A No.

Q Do you recall whether or not Mr. Quilloin enrolled Darrell in kindergarten?

A Yes, he did.

Q Did he take him to school?

A No, he didn't.

Q He didn't?

A Huh uh.

Q He didn't pick him up?

A Huh uh.

Q Who did?

A Mostly he had to come in a cab, or I go pick him up in a cab.

Q Who paid for the cab fare?

A Me. Leon said he was busy.

Q And he never, he just paid the tuition, cab fare or done anything?

A No.

Q Now, do you recall when Mr. Quilloin went to New York to get the child back?

A I didn't know he went there but I know he brought the kid back.

Q He brought him back to you?

A Uh huh, right, to my house.

Q During the time that you had Darrell and had him in your possession, isn't it true that Darrell would spend a good bit of time over with Mabel Dawson?

A No. I told you she said she wasn't able to keep a little child. You know, he would go see her by the day and her other son would bring him back in the afternoon, or Leon when he have time he would bring him back. But Ms. Dawson said she wasn't able to be bothered with a little child all the time.

Q Would he stay a day or two or three?

A A day.

Q Ma'am?

A A day.

Q How much did you say that Ms. Walcott would send from New York to support the child?

A The whole time, you mean?

Q I mean on a weekly or monthly basis, how would she sent it?

A About twenty-five dollars a week.

Q Okay. She was making about sixty-five dollars a week at the time?

A I don't know how much she was making.

Q Did Mr. Quilloin, when he didn't know where Darrell was, ever contact you and try to find out where Darrell was?

A When he found out Darrell had left town, he come in and asked me where did I let him go. I said well, his mother wanted him and I took him to her.

Q Does Darrell pretty much recognize as his grandmother and father biological father, Mr. Quilloin, he knows Mr. Quilloin is his father, doesn't he?

A Yes.

Q He knows Mabel Dawson is his grandmother, doesn't he?

A Yes, he do.

Q Ms. Dawson and her family are relatively pretty good people in Savannah, aren't they?

A As far as I know.

Q They get along with Darrell well, treat him well?

A Yes.

Q They always have?

A Yes, as I knows.

MR. SKINNER: That is all I have.

THE COURT: Anything else?

MR. JONES: No, please go back outside.

THE COURT: Call your next witness.

MR. JONES: Your Honor, I guess at this time if we want to hear from Darrell it would be proper.

MR. SKINNER: Your Honor, I don't have any objection. You could hear from Mr. Quilloin and his witnesses and Darrell last.

THE COURT: Are you through?

MR. JONES: That would be all.

THE COURT: All right, go ahead, Mr. Skinner.

* * * * *

LEON WEBSTER QUILLOIN

having first been duly sworn testified as follows:

DIRECT EXAMINATION

BY MR. SKINNER:

- Q Mr. Quilloin, you were sworn, were you not?
 A Yes.
 Q State your name for the record then.
 A Leon Webster Quilloin.
 Q Mr. Quilloin, are you the biological father of Darrell Quilloin?
 A Yes, I am.
 Q When was Darrell born?
 A December 25, 1964.
 Q Born on Christmas?
 A Uh huh.
 Q Christmas and birthday at the same time?
 A Yes.
 Q Mr. Quilloin, were you ever married to the biological mother of this child?
 A No, I wasn't.
 Q Would you just tell me and tell the Court from the time Darrell was born what you did to help Darrell or support Darrell?
 A Well, starting from birth all his medical expenses at the hospital, the doctors' bills I had the drug store, used to put him on Similac about a year and a half, special milk. He was low in iron or vitamins. But anyway, he had to drink Similac in his milk formula. And then the man from the dairy used to go by every day and carry regular milk. But he wouldn't drink regular milk on a regular basis because he needed a Similac. And from one year and one month, maybe a few breaks in between, I provided everything for Darrell, clothes, medical expenses, milk, whatever they need Ms. Smith would call me. And if I didn't carry it myself, my brother Charlie or some of them guys, Sam, he got it regardless. And after he got, I think about a year and a half,

she got him up in New York and he must have lived there maybe two or three weeks and I went to pick him up and bring him back to Savannah with the understanding that he would stay sometime with her mother and sometime with my mother. And I think maybe once he was, the second and third summer of his life his mother came and visited him. And I think the fourth summer he went up with either his grandmother or her sister or somebody carried him up there to spend the summer with him. And then come back. Once he was four and a half, anyway, that is September, he was four years and nine months and I remember having a hassle with him, you know, about getting him into school. They said he couldn't enroll at four years and nine months. He had to wait until he was five. So, by me going to the same Catholic school and I talked with the priest and sister and all, and they allowed him to start in the kindergarten.

And as far as providing transportation for him to and from school, if I didn't go, I must have had seven or eight people working for me. Somebody out of that seven or eight worked for me went and picked him up or I had a special cab. He didn't have nothing else to do but go pick him up from the school, either carry him back out to her mother's house or bring him to the store to me or my mother's house.

- Q Stop now and tell us was the cab furnished by you?
 A Right. Don't even know the man's name. In fact, since passed but verbal agreement between him and myself. If I call he didn't have to come and get the money from me. Deliver the child to either my mother's house or her mother's house and then he would see me the next day or the following day and he'd collect the fare.
 Q Did you sometimes take the child yourself to kindergarten?
 A Right.
 Q Did you ever provide milk or food or anything for Darrell at the home of Ms. Smith?
 A Right, the dairy, he went over every other day delivered pasteurized milk. And the drug store would provide Similac by the case. I think Similac

twenty-one or twenty-three cents a can on the grocery shelf. If I bought it by the case, maybe it was nineteen cents a can. So I would go ahead and get it by the case.

Q During this period of time I'm speaking of from the time the child was born until the time the child was about five and a half years old, would you tell the Court approximately how long Darrell spent with you and your mother?

A Sixty percent of the time. See, I was in the nightclub business really and what I did, he would spend maybe forty percent of that sixty percent of the times directly with me. So what I did inside the nightclub, I built a nursery for him, you know, with soundproof walls where he could sleep because we didn't close until two o'clock. If he was asleep at two o'clock we remained out in the nursery. If not, I'd get him and carry him to my mother's house. We took care of him. Robert Moss, Charlie, this guy Charles, he's in the nursery there with Darrell and him and Darrell is asleep on the couch.

Q You're referring to the picture that we have introduced or will?

A Right. What it was, each time, you know, one of us would, you know, just say like Sarge worked the package store, I said Sarge, I let you off two o'clock carry the, Darrell to the barber shop, do this and carry him to grandmothers, one of the two.

Q One of the two grandmothers?

A Right, whichever the situation, Ms. Smith would always be home. Mother would more or less be quite a bit in the daytime. She worked with some political organization, you know, there around election time. Going out knocking on doors, getting people to vote.

Q Did you go to New York to pick up Darrell at some time?

A Right.

Q And if so, would you tell the Court the surrounding facts as to why you went?

A After he was there, I think maybe a week or something like that, I don't know whether she called me or her mother. I don't know exactly how I got the message to pick him up. I can't truthfully say. But

it was by mutual agreement that I would go and pick him up from up there. Really I, just an opinion of mine, that she didn't have time to care for the kid. I don't know how many of them there, a lot of girls in the house and I don't think—

MR. JONES: Your Honor, I have to object he said it's an opinion.

THE COURT: I sustain the objection.

THE WITNESS: The main thing it is, that no one had time for the child.

MR. JONES: Well, I have to object to that too, Your Honor.

THE COURT: I sustain the objection to that.

BY MR. SKINNER:

Q Did you go to New York to pick up the child?

A I did.

Q Would you tell me what the living arrangements were that you actually observed when you arrived in New York?

A It was too many of them in that one house to have a little baby in there.

Q Just tell us how many, do you recall exactly?

A Probably four or five.

Q What size apartment was it?

A Efficiency.

MR. JONES: Your Honor, once again I have to object. It's been stated that Mr. Quilloin is not contending Ms. Walcott is not a good mother or not provided properly for Darrell.

MR. SKINNER: That is true, Judge. All we are trying to do, Judge, to show his continuing interest in the best interest of the child. There is no contention she is unfit and we never have contended that.

THE COURT: All right.

BY MR. SKINNER:

Q Did you bring the child back from New York?

A Right.

Q And who was with you on that trip?

A Charles and Robert, Robert Moss.

Q Was any opposition by Ms. Walcott to your bringing the child back?

A None whatsoever.

Q Did she want you to bring it back?

A The only thing she asked me to wait, when I got

there. I called her at work and talked with her and told her I was ready to carry him. She told me to wait until she knocked off, she wanted to see him before he left.

Q And you actually saw her there then?

A Yes.

Q In New York. Did she help pack Darrell's things to come back?

A I don't know whether she did or not but the clothes were packed.

Q Were they packed when you got there or after you got there?

A I don't know. It was such a long waiting period between the time we arrived and waiting around for her to get off. You know, I don't really remember, but I don't remember no one packing them I will put it that way.

Q On the drive back, who cared for Darrell on the road?

A Well, I did the driving and Robert Moss and he, I think held him from New York till somewhere in Virginia because he was asleep most of the time.

Q Did you pay the tuition for Darrell to be enrolled in the St. Mary's School?

A Right. That is private school in Savannah. Like I said, I went to the same Catholic school and I wanted to try to provide good education. They were strict on you, that is why I put him in there.

Q All right. Historically, from the time the child was born until he was five and a half, isn't it true Ms. Walcott would visit the child in the summer mostly?

A Uh huh.

Q What happened at the end of the summer when the child was finished kindergarten?

A When he finished, he went to New York to visit her and then, you know, from kindergarten, if you pass, you go right to the first grade. So, he was supposed to start school the 5th of September and I must have contacted him somewhere around the beginning of September and asked about him getting back to school. And she said well, he wasn't going to come back to school there. And she had previously enrolled him in school already. And that was the end of the conversation.

Q When is the next time you saw Darrell, could you give us point of time when you saw Darrell?

A Maybe seven and a half. Right after that, they disappeared.

Q Did you look for them?

A Yes.

Q You say you found him when was seven and a half. How did you find him?

A Seven and a half. I would go by mother's house and question her about—

Q Are you speaking of her mother?

A Ms. Smith. I'd go by and ask about him and how he was doing and all. And she would kindly answer, you know, kind of candidly. And this particular time when I went by I was asking questions about him and she said well, he's all right because he is right here in the backyard now. I said why didn't you call me. She said Ardell said she don't want you to do nothing. I got her to call Ardell and Ardell said I could keep him for one day. And I got him and we went, you know, around to my mother's house. I think he stayed more than one day. It may have been two days. But what it was, her mother was trying, I guess, satisfy me and try, you know, just keep harmony. Well, he stayed more than one day. And then I was still trying to find, you know, ask different ones questions. And then I don't know when they came from New York to Atlanta, but it was all, surprise to me.

Q When the child was in Savannah, did you go to see him or visit him often? I'm speaking around the time he was eight and a half years old?

A He's just eleven now. So that, that summer before that, so now he's been in Savannah two summers since then.

Q Okay. Did you ever pay the plane fare for the child to be flown from Atlanta to Savannah?

A Well, this past summer he caught the bus and met me in Macon. And I picked him up in Macon. That is when he spent the summer, maybe two or three weeks in Savannah of '75. April of '75, purchased a ticket in Savannah, Delta Air Lines first class. They said traveling unaccompanied by an adult you have got to get him first class. I paid round trip. He flew

from Atlanta I think on a Thursday, stayed maybe Friday, Thursday or Friday. Anyway, just a--the main purpose was to get in Savannah and buy some clothes and a few necessities. I did that and put him back on the plane and he was gone again. And how all this came about, I since moved to Atlanta and I called Ms. Walcott, I said well, I'm in Atlanta now, why don't you bring the kid up to Five Points and maybe show around. She said she's not going to do that no Saturday or no other Saturday. I says never in the summer? No.

Q Have you ever offered or agreed to support Darrell?

A Yes.

Q Have you actually contributed items of clothing and food, et cetera?

A Always.

Q Did you bring Darrell a 10-speed bicycle?

A Yes, and flew it up here on the airlines.

Q How old was Darrell then?

A Nine.

Q What kind of toys and things did you buy for Darrell Christmas, December 1975?

A Mostly in clothes. I just got him a, you know, these little like a model car or something. I bought him a couple of model cars because he seemed interested in fixing those things. I bought him a couple model cars, I think about four pair of trousers, four or five shirts and they came out with something like a fatigue army suit, you know, for kids and I thought he would like that. And I got him that. And I got him one dress suit and which he never got. I called Ms. Walcott, told her where she could pick them up. I brought them up here and carried them to a friend of mine's place of business. She said she would pick them up but she didn't pick them up that day. And I called her and asked her maybe next couple of days. She said her husband objected to it. What puzzled me, they object to some things and some things they didn't. I imagine according to mood.

MR. JONES: Your Honor, I move to strike that last comment.

THE COURT: All right, sir.

BY MR. SKINNER:

Q Mr. Walcott, do you have a close personal relation-

ship with Darrell, I'm sorry, Mr. Quilloin, do you have a close personal relationship with Darrell?

A Yes, we meet together, like I say, I don't think he would remember me from one year and one month to five and a half, but this last two and a half years, yes.

Q How did Darrell develop the nickname of Sloopy and why did he develop that?

MR. JONES: Your Honor, I would object to that as being irrelevant.

THE COURT: Well, it probably is irrelevant but I want him to have a full hearing.

A Well, when he was born he was born premature and he had, we had to pick up an incubator for him to be in. And then after, I think he stay in that for a month. And then after that he had a bad cold. And after that hernia, you know, just one thing right after another. And at that time, that was just popular song on the radio, say hang on Sloopy. Refer to him like that. It was just some sort of type of intuition for me or something to just stick that with him because he was quite sick, you know, say the first nine months I believe it was. And he wasn't but three and a quarter pounds at birth. You know, just uphill struggle all the way.

Q Mr. Quilloin, are you ready, willing and able to pay whatever child support payments to Ms. Walcott as the Court will tell you to do?

A Yes.

Q What type of work do you do now?

A I'm self-employed.

Q Would you tell us approximately what your earnings are per week?

A Two and a half.

Q Two hundred and fifty dollars?

A Two hundred and fifty dollars, plus my fringe benefits over there. Say, we open mini mall over in Decatur and it's set up where I'm more or less the working partner of it. And I realize salary out of it. Then once equity is built up, I will be able to draw some of that. If I ever wanted to sell my portion, sell it to the other two partners or whatever.

Q Are you willing to support Darrell, pay support payments?

A Always. The contention was I never could keep up with him. By the time I found him, they would move again. Never was no question about the support, because I have always been able to provide for him. And if I really wasn't interested in the kid, right from the birth right up through now, I could have let these people stay up in Savannah. They are not up here just free.

Q Mr. Quilloin, in the event the Court was to award some visitation privileges, when would you like to see Darrell?

A Well, I imagine maybe in the summer or once every six weeks or something, because I realize that with him maybe seeing me it does call disruption. But that still doesn't remove the fact he's my kid. That still doesn't remove the fact just by changing his name he is going to forget me.

Q You don't want to do anything to harm him?

A No. In fact, I talked with Ms. Walcott. I said I must have some type of right to the kid or some say or something. And evidently she had talked to a lawyer, because she told me, said well, you don't have any rights. And that is when I told her, I said well, I will just have to see what I can do. I'm not just going to sit back—this week you can see him, next week you can't see him. I'm just not going to stand for it. If I have got some rights, then I want the rights. Then if I don't have the rights, maybe when he's fourteen or maybe when he's eighteen, just never know.

Q Mr. Quilloin, have you ever discussed with Ms. Walcott Darrell's conduct or how he was growing up?

A Yes.

Q Can you tell specific discussions when they were and what, as to whether he was going to college or not?

A Yes, I was asking her, you know, about his interest, you know, you can just determine by the way the kid is going just by the tinkering with little things. I was trying to determine what way, what interests him and what didn't. And I think she said he don't like science, you know, in school. I think that was his low grade in school. But math and

things like that, and I just, you know, talked about his general welfare. And I really don't know why all of a sudden downhill climbing and nobody can help this thing and that thing. And when it's all is a fact, it's a fact that Darrell is here. It's a fact he visits me and then all of a sudden it's just nothing.

MR. SKINNER: That is all I have.

THE COURT: Cross-examination?

* * * * *

CROSS-EXAMINATION

BY MR. JONES:

Q Going back to the period when Darrell was in Savannah, what periods of time?

A From one year and one month, that is when his mother went to New York and left him. Then that following June or July, I don't know whether she came and got him or her mother. I just don't know. All I know, he was gone. And stayed up there maybe two or three weeks. I really don't know. If I had known all of this was coming up I'd have receipts where I gave money. I would have milk bills. But back there then who would have known—

Q Tell us briefly once again what you provided for Darrell?

A Everything, everything he needed.

Q You are saying you provided food?

A Food, clothing, everything.

Q Did you provide all the food Darrell had advantage of?

A I can't specifically say whether he ate a peanut butter sandwich from the peanut butter I bought. But I did provide some things for him.

Q Did you provide food other than milk?

A Not food, I will provide money. I'm just assuming that the money I gave went for food.

Q So, you are saying you gave Ms. Smith some money on a regular basis?

A Right. I don't even remember prices, I mean amounts. It was just, basically he never really wanted for nothing. And it wasn't from, Ms. Smith providing because Ms. Smith was overloaded herself, you see.

- Q Could it come from Ms. Walcott?
- A No.
- Q Do you know for a fact that she did not provide payments for him?
- A I couldn't say that she didn't send her mother her money. But I can say that she didn't have to send her mother no money to take care of Darrell.
- Q Are you saying that you provided sufficient money to Ms. Smith to completely support Darrell?
- A Yes, food, clothes.
- Q Food other than milk?
- A Yes. Wait, I didn't pick up a pound of weiners and carry them over there. And money, if I give you some money, I'm assuming you are going to spend it on the child. I am not going to dictate, say get a loaf of bread or pound of butter.
- Q I'm trying to find out what you provided for Darrell during that period.
- A Monies, clothes, milk, money, medical expenses, we had a slide out there. He likes to go down the slide. He was born provided for.
- Q Did you actually take clothes over there?
- A I got a picture in my pocket just came from shopping.
- Q I'm talking about during this period, would you say you completely clothed Darrell?
- A Right.
- Q You provided everything he wore?
- A Right.
- Q On the shelter aspect, did you put a roof over his head?
- A Sixty percent of the time.
- Q Sixty percent of the time you provided the shelter for him?
- A Right, either he was at her mother's or my mother's or he was with me. And I would carry him literally everywhere I went, no matter day or night or morning or noon, you know what it was.
- Q Do you feel that this was good for the child keeping such irregular hours?
- A I didn't think about it being bad for him because it was just our way of life. And I wanted to be with him and I had to work. So, it wasn't a matter of whether the surroundings I was with, because I was

- brought up in rough surroundings. I didn't come up and turn out to be a bad kid. I may be rough but no criminal. But really the surroundings had nothing to do with it. I was in the whiskey business. Like I say, inside this nightclub we provided a nursery for him that was shut off from the noise and everything. If he wanted to go to sleep at seven o'clock at night he could go to sleep and sleep right through. If he wasn't awake by the time to close, then he and I both would spend the night in there.
- Q So, you provided the actual shelter for him about sixty percent of the time?
- A Right.
- Q Didn't you make some statements your mother was not home?
- A No, at certain times of the year. The difference between Ms. Smith and my mother, Ms. Smith would be home say. I can't remember ten times she wasn't at home. My mother is a housewife, but maybe around election time, little organization get organized voters and stuff like that. And how often would election come up, every two years or something like that. But she was sort of active in the community. Not just providing for Darrell, but she would provide for a lot of people in the community.
- Q How was your mother's health in this period?
- A Fine so far as I know except for the last couple of years she's had arthritis bother her.
- Q You would disagree with the statement made by Ms. Smith that your mother was not able to care for a small child?
- A Right.
- Q So, you felt sixty percent of the time you were providing adequate environment for Darrell?
- A Right, adequate roof. We may have a difference to the surroundings. But he was brought up in the nightclub surrounding.
- Q Did you make the payments, the cash payments I'm talking about to Ms. Smith on a regular basis?
- A No. It wasn't regular, because what he needed I provided everything for him. The little money put there maybe fifteen dollars. I don't know. But fifteen dollars, ten years ago, was fifty now, you know what I mean. And I couldn't say well, every week I

gave her fifteen dollars. No. But that was supposed to have been money to buy, you know, whatever maybe he would need when he was out there.

Q Were you aware of your obligation to support Darrell completely?

A That is what I was doing. Like I said, doing until he disappeared. I spent half of my time looking for him. And we wouldn't be here. I asked her, I said let's don't get into a big long drawn-out thing. All I want to do see the kid and provide for him and that is it. She said every time you come to visit me I'm evidently bad influence on him, and it's bad influence providing for him, then I'm—

Q Let me refer to this trip to New York that has been mentioned previously. I think you heard Ms. Walcott make the statement that part of the reason or part of her feelings during this period were caused by the fact that she was in fear. Do you remember her making that statement?

A Yes.

Q Do you think she had any reason to be in fear of you?

A Yes. Like I say, I was rough. I wasn't no criminal. We would have our little fights, stuff like that. But, eight million people in New York. How could I just find her out of eight million. Must have been some collateral.

Q After that contact was made, possibility she was coerced into giving Darrell to you?

A No.

Q If she was in fear this might be part of the reason.

A If she was.

Q I thought you just said good reason.

A No. I said we have had our times, and fights, no doubt about that. If she had been afraid of me then she should be afraid of me now.

Q Hadn't Ms. Walcott been present when you had an altercation with some other woman?

A Yes.

Q Didn't the other woman get hurt pretty bad in this incident?

A Yes, not pretty bad. Bust a lip. That is not bad I don't think. If you look at it from being hurt, broke arm, that is bad. I am trying to get on the same

level as to what you call pretty bad.

Q But to sort of sum it all up, do you agree that Ms. Walcott had adequate reason to be in fear of you?

A Not really because, the reason of my even having this with this third party was she was, I guess more or less trying to interfere with the relationship as far as the kid and Ms. Walcott and myself. You see, Ms. Walcott haven't had nothing in common since the day the baby was conceived until this one. It wasn't a matter I wanted to get along as sweetheart. I wanted to get along as far as baby. When third party came around, naturally that's got to cause the trouble. So that is when the altercation came about. I'm trying to get her away, not say I'm going to jump on somebody without being provoked, or something.

Q Mr. Quilloin, you are not asking for custody, are you?

A No. I honestly believe his rightful place is with his mother. I was brought up without a father. I know it was times maybe if I had a father, you know, I went on and finished school. I wanted to be a lawyer, you see. And I didn't have no one there to say really encourage me. I'm not married, so consequently with me, he's in a broken home more or less. I don't have no objection to her keeping him. It's just a matter of, it's a little bond between the kid and myself seldom as it's been. And I think where the resentment come from is maybe on their part when I do get him I shower him with too much of everything and he'd go back and talk about it.

Q You do agree he's in a satisfactory home?

A No, that would be an assumption. I'm assuming.

Q But you are not objecting to the home environment at this time?

A As far as I know. I don't know what the surroundings is. I have heard. You tell me I can't go in that.

Q When did you find out Mr. Walcott attempting to adopt Darrell?

A When the lady from the Family and Children's Services called me and set up an appointment. And I was really upset at the time, because just out of the clear blue sky—Mr. Quilloin, my name is so-and-so and I want to explain to you what an adoption is. I

said I understand what adoption is. But she insists have to go from the beginning and what it amounts to.

Q Have you consulted with Mr. Skinner or any other attorney prior to that time concerning visitation rights?

A I spoke with Mr. Skinner. I had occasion to be in his company and I think I asked him, I said well, look, I don't really think I have the money to retain a lawyer. But I said I'm going to have a little problem maybe with my kid.

Q But this was after the time you had found out?

A No, no, this was prior to. I said I think that I am going to, you know, see, I want you to check and see about my rights because Ms. Walcott informed me I didn't have no rights. So then I wanted to check it out. So then on this particular occasion one of the partners out there in the business I am in, just a small partner, he obtained Mr. Skinner. That is how I happened to know him. When Mr. Skinner came out to our place of business after finishing what they had to do, I said what about a little free information. That is when he said I don't think by this law and that law and then it just sort of died off until Ms., I can't think of the lady's name from the Family and Children's Services came out, you know, called me and made an appointment and came out and discussed the kid; what I thought about it, whether or not I was going to appeal it et cetera.

Q Had you made any effort prior to this time, during the eleven years of Darrell's life to legitimate him?

A Number one, that was the first thing. I didn't know that was process even you went through.

Q Were you aware you would go to a court and get some visitation rights?

A I didn't feel like it was necessary. After eight and a half years everything was honky dorry. You see, I wanted to get as much done with less amount of static as possible. Once you throw it in court, the court says this and that. And we was coming right along like I say up through last summer. And then just—

MR. JONES: That is all I have.

THE COURT: Let's take a break.
(Recess.)

* * * * *

REDIRECT EXAMINATION

BY MR. SKINNER:

Q Mr. Quilloin, were you ever served with the adoption?

A Never.

Q Sheriff ever come out and give you the papers?

A Never.

Q Serve you with anything?

A Never.

MR. SKINNER: That is all I have, Your Honor.

MR. JONES: Nothing further.

THE COURT: Call your next witness.

* * * * *

MABEL DAWSON

having first been duly sworn as a witness testified as follows:

DIRECT EXAMINATION

BY MR. SKINNER:

Q Ms. Dawson, would you state your name and address.

A Mabel Dawson, 608 West 59th Street, Savannah, Georgia.

Q How are you related to Mr. Leon Webster Quilloin here?

A That is my son.

Q Okay. Are you familiar with Darrell Quilloin?

A Yes.

Q You know Darrell Quilloin is the son of Mr. Leon Quilloin?

A That's right.

Q And his mother Ms. Walcott?

A That is true.

Q Ms. Dawson, do you recall when Darrell was born?

A Yes. I don't know the exact year but I do know he was born December 25.

Q From the time that Darrell was born until the time he was about a year old, where did Darrell live?

A With his mother's mother.

- Q And from the time that Darrell was about a year old until Darrell was about five and a half, where did Darrell live?
- A Well, sometimes he was with Willie Mae and sometimes, well, he was a few months in the north with his mother and back and forth. Sometimes he was with us.
- Q Okay. Did doctor, when you say us, you mean—
- A I mean to tell the truth may I say this?
- Q Sure.
- A On both sides the family has always been agreeable, you know. We decided on what we do, the grandmother, when she is going to keep him or want him back. She'd call me and I would carry him to her.
- Q You shared the possession of the child and cared for the child?
- A Yes, sir, at times.
- Q When the child was with you, who provided for the child as far as support?
- A Well, my son has always given me and baby and Willie Mae and all who's concerned if you want to know the truth.
- Q Given you what?
- A Money and supplies for the baby. Different things that Willie Mae would call and just tell him if I didn't tell him and I would go and carry it myself. And Ms. Willie Mae and Ms. Walcott all knowed we loved him and do everything we could allowed to do for him.
- Q This past summer, did Darrell visit in Savannah with you?
- A For one or two days because he had some aunt there. And he had been over there one or two days and back over and forth like that. I think that is the time he went to birthday party in Milledgeville or something, you know, somewhere in Milledgeville.
- Q Could you tell the Court approximately what percentage of the time that you and Mr. Quilloin cared for the child?
- A Well, we didn't ever, you know, just have it just Mr. Quilloin and myself other than just a week or so at a time. But, just from Ms. Smith, I myself, Willie Mae and myself, we would have it, Leon would have the little boy. I don't know, I guess, I don't know

how many years really and truly to tell you the truth. But we all have always been with the boy on both sides.

- Q Does Darrell recognize you as his grandmother?
- A Oh, yes, indeed.
- Q How is your health, Ms. Dawson? How was it say five years ago?
- A It was okay five years ago but right now it's not, I got a little touch of diabetes. But you see, that doesn't have anything to do with me taking care of Darrell because my husband is retired and he do most of it, you know, working around. We do it together. But I have never been a sickly woman. I have always worked and provided to the best of my ability all of my life until here just about a couple of years now that I have had a little touch of this diabetes.
- MR. SKINNER: That is all I have of this witness.

* * * * *

CROSS-EXAMINATION

BY MR. JONES:

- Q On the health question, while we are on it, Ms. Dawson, during this period say when Darrell was one to about five and a half years old, did you have any serious problems with your eyesight?
- A Oh, no.
- Q Did you have any serious problems with your legs as far as moving about?
- A Oh, no, that just came in my older days.
- Q So, you're saying that during that period you were fully able to care for Darrell?
- A Sure. Anyone, any of them in here, I say that because I have always, Ardell, they all know that I was very active. I got one of my grandchildren to my house now for the summer.
- Q Did I understand you to say that you and Mr. Quilloin never really had Darrell actually in your home more than a week at a time?
- A No, Darrell went to St. Mary's Catholic School from my house.
- Q Where did he return after school?

- A You know, he'd go back to Willie Mae's whenever he wanted to. But he wasn't even six then. He would go to kindergarten at St. Mary's.
- Q And he would come home every night?
- A No, no, go get him, go get him.
- Q I mean return every night?
- A Oh, yes.
- Q And except as you say, except for about a week at a time, he would be going back?
- A No, he couldn't go from there a week at a time. We could carry him on the weekends to Willie Mae's, over there on Division and Wright Street. I can get that record.
- Q Let me try to ask question I think been asked before. What percentage of the time during this period from the time that Darrell was born until he was five and a half, what percentage of the time did you say that Darrell actually slept in your home or somewhere else with Mr. Quilloin, could you estimate that for us?
- A With Mr. Quilloin or with both?
- Q Either of you.
- A Just the family as whole?
- Q Right.
- A Well, I'd say about forty percent because Willie Mae has mostly been over off and on. And when I kept him at school I'd carry him home Friday afternoon, Leon or myself, some of us.
- Q And I think you said at certain times Ms. Smith would call and request certain items?
- A Say I want to go to church and we would take him early Friday where we could go.
- Q I was thinking more or less things of money for support, food, shelter.
- A Oh, no, that was never a problem with any of us. Darrell has always been well kept, well cared for.
- Q I thought I understood you to say that at various times when Darrell was staying with Ms. Smith, she would call and request certain items.
- A I didn't say items, I said times.
- Q Okay, I'm sorry.
- A Yes, we do that sometimes.
- Q I was about to ask you, let me rephrase that question and put it in these terms. Do you, from your

- own personal knowledge, know what Mr. Quilloin provided for Darrell during that time?
- A Well, I know that he would provide, they had him on some kind of milk, the doctor put him on something called Similac. It comes in a bottle like that, blue cans. They didn't have that when I had my children small. And she would tell, well, he would be out of Similac, something like that, and never was a problem about him being cared for financially or getting clothing. Never, and it isn't now so far as I know.
- Q Well, back during this period, other than the milk, Similac as you say, do you know from your own personal knowledge of things that Mr. Quilloin provided for Darrell?
- A Well, clothing and like that.
- Q I'm sorry.
- A He'd mind him sometimes, care for him and like what you mean, like clothing?
- Q Yes, necessities of life.
- A Oh, no, Leon always did that. Or both would contribute not necessarily that he had to do so.
- Q I'm particularly concerned with what Mr. Quilloin provided, Similac, and you mentioned clothes.
- A He got them up until just here this year when we were expecting him to come in March and he didn't get there. We always get, you know, his clothes for him and all like that.
- Q Did Mr. Quilloin provide all the clothes that Darrell had?
- A I wouldn't say all because all mothers buy little things for the children. But anything that Darrell really needed he got that.
- Q Would you say that Mr. Quilloin provided the majority?
- A The majority, yes.
- Q Do you know of your own knowledge of any money that Mr. Quilloin ever gave to Ms. Smith during this period?
- A Yes, any, you know that was between the two of them. But she's never complained to me about him not doing.
- MR. JONES: That is all I have, Your Honor.
- THE COURT: Anything else?

MR. SKINNER: I don't think so.
THE COURT: Please go back outside.

* * * * *

ROBERT WILSON MOSS

having first been duly sworn as a witness testified as follows:

DIRECT EXAMINATION

BY MR. SKINNER:

- Q State your name for the Court and jury.
A Robert Wilson Moss.
Q Where do you live?
A Savannah, Georgia.
Q How long have you been acquainted with Mr. Leon Webster Quilloin sitting here?
A I met him in, I think maybe April of '65.
Q Okay. Did you know his son Darrell Quilloin?
A Yes.
Q Tell the Court how you first met Darrell Quilloin?
A Well, I came to Savannah in the Air Force, stationed at Hunter Field. And I got acquainted with Mr. Quilloin. He was club owner at the time. And we became pretty good friends. And he had this kid which I didn't know too much about, seen him. But the way that I came more acquainted with him, I went with Mr. Quilloin to New York in September of '66 is when I got discharged from service, with him to pick up his kid. And from that time I have, you know, seen the kid on several occasions with his father.
Q Do you know whether or not Mr. Quilloin cared for Darrell during this time?
A I know that he cared for him, yes.
Q What makes you know that?
A Well, he was very concerned about him. He was always wanted him around him. He would get his kid and as a matter of fact, he took the kid most every place he went, you know, when he had him. Like I said, we were good friends and you know, a lot of times he wou'd, he would just keep his kid. Every place we saw him, he had his kid with him.

Q Are you related to Mr. Quilloin in any manner?

A No, I am not.
MR. SKINNER: That is all I have.

MR. JONES: No questions.

THE COURT: All right, sir.

* * * * *

DONNELL DAWSON

having first been duly sworn as a witness testified as follows:

DIRECT EXAMINATION

BY MR. SKINNER:

- Q State your name.
A Donnell Dawson.
Q Are you related to Mr. Leon Quilloin here?
A Yes, I am.
Q And you know Mr. Robert Moss and Ms. Dawson, all came from Savannah today, didn't you?
A Yes, we did.
Q Mr. Dawson, do you know Darrell Quilloin?
A Yes, I do.
Q How long have you known Darrell Quilloin?
A His whole life.
Q Would you just tell the Court for the first five and a half years of Darrell's life approximately what percentage did he spend with Mr. Quilloin?
A It was like, I couldn't really put a percentage. It was just like we had him and her mother had him, you know, it was like, it's rough to say but you know, we always had connections with him.
Q What's Darrell's nickname?
A Sloopy.
Q Were you living with Mabel Dawson during the first five and a half years of Darrell's life?
A Yes.
Q All right. Since then, have you seen Darrell with Mr. Quilloin and have you known that they were visiting together and been together?
A Since when?
Q Since the child was about five and a half.
A Yes.

- Q Darrell called Mr. Quilloin daddy, father?
- A He called him Leon, and then when he was around me and my mother and father, he called him his daddy, Leon, whatever.
- MR. SKINNER: That is all I have.
- MR. JONES: No questions.
- THE COURT: All right, sir, call your next witness.
- MR. SKINNER: I don't have any further witnesses, Your Honor. I'd like to tender these exhibits. Your Honor, I tender P-1 and 2 collectively P-2. Do you have objection?
- MR. JONES: I have no objection.
- THE COURT: All right, Plaintiff's Exhibits 1 and 2 are received in evidence without objection.
- MR. SKINNER: Your Honor, would, I request that I be allowed to question the child. I would prefer both Mr. and Ms. Walcott all be out of here. Just Mr. Jones and Your Honor be in the presence. I think it would put an undue strain on the child to have to testify under these circumstances.
- THE COURT: Mr. Jones says he agrees.
- MR. JONES: I'm in total agreement.
- MR. SKINNER: You want to let them set out. Do you object?
- MS. WALCOTT: No.
- MR. JONES: What I was consenting to the fact that they should leave. I would really prefer to interrogate Darrell myself.
- THE COURT: How old are you?
- DARRELL QUILLOIN: Eleven.
- THE COURT: You know what it means to take an oath and swear to tell the truth?
- DARRELL QUILLOIN: Yes.
- THE COURT: I think he understands.

* * * * *

DARRELL QUILLOIN

having first been duly sworn as a witness testified as follows:

DIRECT EXAMINATION

BY MR. JONES:

- Q State your name, please.
- A Darrell Quilloin.
- Q Darrell, do you have some understanding about what we are doing here?
- A Yes.
- Q Do you realize that the issue before the Court here is whether you will be adopted by Mr. Walcott or whether Mr. Quilloin will continue to be your legal father?
- A Yes.
- Q Do you understand the Court will make that determination based on what you say and the other evidence that's been presented?
- A Yes.
- Q How do you feel about this adoption or this request for adoption?
- A I want my name changed.
- Q You want to get your named changed from Quilloin to Walcott?
- A Yes.
- Q Can we assume that you want the man that you live with to be your legal father?
- A Yes.
- MR. JONES: That is all I have.

* * * * *

CROSS-EXAMINATION

BY MR. SKINNER:

- Q Darrell, do you know who your real father is?
- A Yes.
- Q Who is that?
- A You mean now?
- Q Who is your real father?
- A You mean my legal father?
- Q Just forget legal and things like that. I wouldn't expect you to know. Who is the person that you knew as your father from the time you were a baby if you can remember back that far?
- A Leon.
- Q Leon. Tell me some of the things you and Mr. Leon

Quilloin have done together?

A Well, last year I went, I stayed for two weeks. He used to have a place down there in Savannah. I used to work there. He would pay me every week.

Q He would pay you to work with him?

A Uh huh.

Q And you spent the time there and you worked in the store?

A Yes.

Q Did he buy you clothes and things?

A Yes.

Q Buy you bicycles and things like that?

A One.

Q One time. And last summer, when you were down there, who did you stay with?

A I stayed with Leon for a little while and then the rest of it I stayed with my aunt.

Q Who is that?

A Barbara Richardson. That is where my mother is with them too.

Q Do you recognize Ms. Mabel Dawson as your grandmother?

A Uh huh.

Q You used to call her grandmother?

A Uh huh.

Q Do you remember back when you was a child going around to places, being at places with Mr. Leon Quilloin?

A Yes.

Q Darrell, would you like, if it was left up to you, would you like to see Mr. Quilloin sometimes?

A Yes.

Q You would like to see him?

A Uh huh.

Q Would you like to visit with him sometimes maybe in the summer or something like you have in the past? Have you and Mr. Quilloin talked about whether or not you are going to go on to college, anything like that?

A No.

Q What do you all talk about?

A I don't remember. We just talk sometimes.

Q How do you get along with Mr. Walcott?

A I get along fine.

Q You don't have any problems?

A No.

Q You have any problems with your smaller brother?

A No.

Q Darrell, if Mr. Quilloin wanted to give you something, you wouldn't have any objection to taking it, would you?

A No.

Q Darrell, would you just tell me in your own words what you understand this procedure to be today?

A To get adopted. Get my name changed and get adopted.

Q Do you understand that in the event that the Court were to approve the adoption that you might never be able to see Mr. Quilloin again?

MR. JONES: Your Honor, I really don't want to object. I think it's really improper question.

THE COURT: I think so. It's really intimidating.

MR. SKINNER: That is all, Your Honor.

THE COURT: You want to go back outside? Anything else?

MR. SKINNER: Nothing further, Your Honor.

THE COURT: You all want to argue the case. You all want to argue in any order or does it matter?

MR. SKINNER: I don't think it matters.

MR. JONES: I waive opening and reserve the right to close.

MR. SKINNER: Okay, Your Honor.

* * * * *

(Argument of Counsel)

THE COURT: Suppose both of you just give me a memorandum and then I will find conclusion of law just as quickly as I can. As quickly as you all get it to me.

* * *

EXHIBITS

Plaintiff:

1. Bill of Dr. H.M. Collier, 1-22-65.
2. 12 colored photographs of Darrell.

(COURT REPORTER'S CERTIFICATE
OMITTED IN PRINTING.)

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

IN RE: APPLICATION OF
RANDALL WALCOTT
FOR ADOPTION
OF CHILD

ADOPTION
CASE NUMBER 8466

LEON WEBSTER QUILLOIN,
Plaintiff
vs.
ARDELL WILLIAMS WALCOTT,
Defendant,
Respondent

CIVIL ACTION NO.
C-18672

LEON WEBSTER QUILLOIN,
Plaintiff
vs.
ARDELL WILLIAMS WALCOTT,
Defendant,
Respondent

CIVIL ACTION NO.
C-18673

ORDER—filed July 12, 1976

The above-stated adoption matter coming on regularly to be heard; and a Petition for Legitimation of said child, a Habeas Corpus action for visitation rights and two amendments thereto attacking the constitutionality of certain Georgia laws and seeking a declaratory judgment and injunction, all having been filed subsequent to the filing of the original petition for adoption; and the Court hearing all the said matters on a consolidated record for the purpose of allowing the biological father (respondent in the adoption matter and movant in the other said matters) a right to be heard with respect to any issue or other thing upon which he desired to be heard, including his fitness as a parent; and, after hearing all the evidence and arguments of counsel, together with consideration of briefs filed in all said matters, the Court finds as follows:

(1) Darrell W. Quilloin, a male, minor child, born December 25, 1964, now eleven (11) years of age; is an illegitimate child of Ardell Williams Walcott (mother) and Leon Webster Quilloin (father). The said mother and father are not and never have been married.

(2) The mother has had possession and custody of said child and the child has lived solely or principally with the mother or maternal grandparents all of the child's life, although the child has visited with the father and the paternal grandparents on many occasions.

(3) The father has provided support for the child irregularly, in the form of medical attention, food, clothing, gifts and toys from time to time.

(4) The principal or primary source of support, on a regular basis, has been the mother or the maternal grandparents.

(5) Overall, the child has been well cared for and has never been in an abandoned or deprived condition.

(6) The mother is now married to Randall Walcott and has been so married since September 16, 1967, and there is a seven-year old child as a result of that marriage.

(7) The mother has recently declined to allow visitation by the father and has declined to accept support by way of toys, gifts, etc., for the child because of disruption of the family and disparity in the treatment of this child and the seven-year old half-brother in the home, which causes problems within the family.

(8) The step-father of the child, Randall Walcott (the mother's husband), filed his petition for adoption of the child on March 24, 1976, and the mother consented to such adoption in writing, same being attached to said petition.

(9) The child, though only eleven years of age, expresses his desire to be adopted by the step-father, Randall Walcott, to change his name to Walcott, as well as his desire to continue to visit the biological father, Leon Webster Quilloin, on occasions.

(10) The biological father made no effort to legitimate the child and filed no petition for legitimation until after the aforesaid petition for adoption was filed by Randall Walcott.

(11) The biological father made no effort to obtain regular visitation rights and filed no Habeas Corpus action to establish visitation privileges until after the aforesaid petition for adoption was filed by Randall Walcott.

(12) The biological father is a single man; he is not seeking custody of the child; he objects to the adoption

by Randall Walcott and he seeks visitation rights.

(13) The mother objects to the granting of the legitimation and she objects to visitation rights by the biological father.

(14) The proposed adoptive father, Randall Walcott, is a fit and proper person to adopt the child.

(15) The proposed adoption of the child by Randall Walcott is in the best interests of said child.

(16) The proposed legitimation of the child by Leon Webster Quilloin is not in the best interests of the child at this late date, nor is the granting of the Habeas Corpus relief seeking visitation rights in the best interests of the child, and both should be denied.

CONCLUSIONS OF LAW

(1) The child in question, being illegitimate, the consent of the mother alone to the adoption is sufficient. (Georgia Laws 1941, as amended, Georgia Code 74-403(3)).

(2) The biological father, Leon Webster Quilloin, has no standing to object to the proposed adoption, the mother having the right to possession of the child and she being the only recognized parent with the right to exercise all the paternal power. (Georgia Code 74-203).

IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED as follows:

(1) That the final order of adoption be entered on the petition of Randall Walcott, and the Court will enter such order in Case Number 8466 contemporaneously herewith.

(2) That the petition for legitimation filed by Leon Webster Quilloin, Case Number C-18673, be and the same hereby is denied.

(3) That the Writ of Habeas Corpus establishing visitation rights filed by Leon Webster Quilloin, Case Number C-18672, be and the same hereby is denied.

(4) That the first amendment filed by Leon Webster Quilloin, to Case Numbers C-18672, C-18673, and 8644, attacking the constitutionality of Georgia Code Section 74-203 (3028) as amended; Georgia Laws 1943, page 538, as amended; and Georgia Laws 1856 as amended, be and the same hereby is denied and the Court declines to hold

said laws and said Code Section unconstitutional for any of the reasons stated.

(5) That the second amendment filed by Leon Webster Quilloin in Case Numbers C-18672, C-18673, and 8466, seeking a declaratory judgment declaring Georgia Code Section 74-203 (3028) to be unconstitutional, be and the same hereby is denied and the Court declines to declare said Code Sections and any portions thereof and said laws unconstitutional for any of the reasons stated.

(6) That the injunction sought against Randall Walcott and Ardell Williams Walcott in the second amendment filed by Leon Webster Quilloin to the aforesaid actions be and the same hereby is denied, there being no basis in law for the granting of such injunction, and the Court so holds.

This 12 day of July 1976.

S/ _____
JUDGE, SUPERIOR COURT
Atlanta Judicial Circuit

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

IN RE: APPLICATION OF
RANDALL WALCOTT
FOR ADOPTION
OF CHILD } ADOPTION
CASE NUMBER 8466

LEON WEBSTER QUILLOIN,
Plaintiff
V.
ARDELL WILLIAMS WALCOTT, } CIVIL ACTION NO.
Defendant, C-18672
Respondent

LEON WEBSTER QUILLOIN,
Plaintiff
V.
ARDELL WILLIAMS WALCOTT, } CIVIL ACTION NO.
Defendant, C-18673
Respondent

AMENDED ORDER—filed July 21, 1976

The Order passed in the above-stated case on July 12, 1976 is hereby amended by striking paragraph five of said Order and inserting in lieu of the said stricken paragraph the following:

"(5) That the second amendment filed by Leon Webster Quilloin to Case Numbers C-18672, C-18673, and 8466, seeking a declaratory judgment declaring Georgia Code Section 74-203 (3028) and Georgia Code Section 74-403(3), Georgia Laws 1941, page 301, as amended, to be unconstitutional, be and the same hereby is denied, and the Court declines to declare said Code Sections and any portions thereof and said laws unconstitutional for any of the reasons stated."

The remaining portions of said Order, including any findings of facts and conclusions of law, are continued in

full force and effect.
This 21 day of July, 1976.

S/ _____
JUDGE, S.C., A.J.C.

**IN THE SUPERIOR COURT
FOR THE COUNTY OF FULTON
STATE OF GEORGIA**

IN RE: APPLICATION OF
RANDALL WALCOTT
FOR ADOPTION OF
CHILD } ADOPTION
CASE NO. 8466

LEON WEBSTER QUILLOIN,
Plaintiff,
vs.
ARDELL WILLIAMS WALCOTT, } CIVIL ACTION
Defendant, FILE NO. C-18672
Respondent.

LEON WEBSTER QUILLOIN,
Plaintiff,
vs.
ARDELL WILLIAMS WALCOTT, } CIVIL ACTION
Defendant, FILE NO. C-18673
Respondent.

NOTICE OF APPEAL—filed July 21, 1976

Notice is hereby given that Leon Webster Quilloin, Plaintiff in the action for Legitimation and Habeas Corpus and Respondent in the adoption action hereby appeals to the Supreme Court for the State of Georgia from the Order of the Honorable Elmo Holt, Judge, Superior Court of Fulton County, Atlanta Judicial Circuit, entered on July 12, 1976 wherein said trial court entered a final order of adoption in case no. 8466, and wherein said trial court denied Petitioner's Petition for Legitimation filed in Case No. C-18673, and wherein said trial court denied Leon Webster Quilloin's Applica-

tion for Writ of Habeas Corpus, Case No. C-18672, and wherein the trial court declined to hold Georgia Code Ann. §74-203(3028) as amended, Georgia Laws, 1943, page 538, as amended unconstitutional, and wherein the trial court declined to hold unconstitutional Georgia Code §74-403(3), Georgia Laws 1941, page 300, as amended, and wherein the trial court denied the prayer of injunction of Leon Webster Quilloin.

That the Clerk shall omit nothing from the record except briefs and suggested orders.

That the Supreme Court for the State of Georgia, not the Court of Appeals, has jurisdiction of this Appeal pursuant to Georgia Code Ann. §2-3704 in that this action involves the construction of the Constitution of the United States, equitable relief, and a Habeas Corpus action.

Notive given this 20 day of July, 1976.

S/ _____
WILLIAM L. SKINNER
Attorney for Leon Webster Quilloin

Suite 485
One West Court Square
Decatur, Georgia 30030
(404) 377-0466

IN THE SUPERIOR COURT
FOR THE COUNTY OF FULTON
STATE OF GEORGIA

IN RE: APPLICATION OF
RANDALL WALCOTT
FOR ADOPTION
OF CHILD } ADOPTION CASE
NUMBER 8466

LEON WEBSTER QUILLOIN,
Plaintiff,
vs.
ARDELL WILLIAMS WALCOTT,
Defendant,
Respondent. } CIVIL ACTION
FILE NO. C-18672

LEON WEBSTER QUILLOIN,
Plaintiff,
vs.
ARDELL WILLIAMS WALCOTT,
Defendant,
Respondent. } CIVIL ACTION
FILE NO. C-18673

AMENDMENT TO NOTICE OF APPEAL
—Filed July 26, 1976

COMES NOW Leon Webster Quilloin and gives notice that he hereby amends his previous notice of appeal to include the following statement:

That notice is hereby given that Leon Webster Quilloin appeals from the Order of the Honorable Elmo Holt, Judge, Superior Court of Fulton County to the Supreme Court for the State of Georgia from the Order entered by said Judge on July 12, 1976, as amended by the Court's Order of the 21st day of July, 1976.

That the Clerk shall also include the transcript of the evidence taken before the Honorable Elmo Holt in this action.

Notice given as amended this 23 day of July 1976.

S/ _____
WILLIAM L. SKINNER
Attorney for Leon Webster Quilloin

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(404) 377-0466

**IN THE SUPREME COURT
FOR THE STATE OF GEORGIA**

LEON WEBSTER QUILLOIN,
Appellant,
vs.

ARDELL WILLIAMS WALCOTT
and RANDALL WALCOTT,
Appellees.

SUPREME COURT
CASE NO. 31643

ENUMERATION OF ERRORS—filed Sept. 14, 1976

COMES NOW the Appellant and files this his Enumeration of Errors and respectfully shows to the Court the following:

1.

That the trial court, the Honorable Elmo Holt, Judge of the Superior Court of Fulton County erred in entering his order on July 12, 1976 and amending his order on the 21st day of July, 1976, wherein said trial court entered a final order of adoption in Case No. 8466 and wherein said trial court denied Petitioner's Petition for Legitimation, filed in Case No. C-18673 and wherein said trial court denied Appellant's Application for Writ of Habeas Corpus in Case No. C-18672, and wherein the trial court applied and declined to hold Georgia Laws, 1943, page 538, as amended, Ga. Code §74-203, Ga. Code (3028), which states:

"The mother of an illegitimate child shall be entitled to the possession of the child, unless the father shall legitimate him as before provided. Being the only recognized parent, she may exercise all the paternal power."

unconstitutional and wherein the trial court applied and declined to hold unconstitutional Georgia Code §74-403(3), Georgia Laws, 1941, page 300, as amended which states:

"Illegitimate children.—If the child be illegitimate, the consent of the mother alone shall suffice."

The Order of July 12, 1976 is found at R-33 and was amended by Order of July 21, 1976 found at R-38.

JURISDICTIONAL STATEMENT

The Supreme Court for the State of Georgia, not the Court of Appeals for the State of Georgia has jurisdiction of this appeal pursuant to Ga. Code §2-3704 in that this action involves construction of the Constitution of the United States, equitable relief, and a Habeas Corpus action. R-33 and R-38.

Respectfully submitted this 14 day of Sept., 1976.

S/
WILLIAM L. SKINNER
Attorney for Appellant
Leon Webster Quilloin

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(404) 377-0466

IN THE SUPREME COURT OF GEORGIA

Decided: Jan. 06, 1977

31643. QUILLOIN v. WALCOTT

HILL, Justice.

The constitutional rights of the natural father of an illegitimate child are presented here for review. After the child's stepfather filed a petition for adoption, the natural father sought to oppose the adoption, to legitimate the child and to gain visitation rights. The trial court refused to declare Code Ann. §74-203, placing all parental power in the mother of an illegitimate, and Code Ann. §74-403 (3), requiring only her consent for such a child's adoption, unconstitutional. The adoption was granted and the legitimation petition and visitation rights were denied. The natural father appeals.

The child, now twelve, was born in 1964. He has lived with his maternal grandmother and his mother all of his life, although he has visited with his father on occasions. The primary support for the child has been from his mother or his maternal grandparents. His father has provided some support and has given some presents from time to time.

In 1967 the stepfather and the mother were married, and on March 24, 1976, he filed his petition to adopt the child. The mother's consent to such adoption was attached to the petition. The natural father made no effort to legitimate the child or to obtain visitation rights until after the stepfather filed the adoption petition.

On appeal the natural father argues that Code Ann. §§74-203 and 74-403(3) are unconstitutional.

We begin by looking at the statutory scheme of Title 74, Parent and Child, in its entirety. Sections 74-101 through 74-112 are concerned with legitimate children—what children are legitimate, how illegitimate children can be legitimated, etc. Code Ann. §74-108, entitled "Parental Power" states how a father's parental power shall be lost: ". . . 2. Consenting to the adoption of the child by a third person. 3. Failure of the father to

provide necessities for his child. . . . 5. Consent to the marriage of the child. . . ." Sections 74-201 through 74-205 deal with illegitimate children. Section 74-203, which is under attack, states the rights of the mother of an illegitimate child: "The mother of an illegitimate child shall be entitled to the possession of the child, unless the father shall legitimate him as before provided. Being the only recognized parent, she may exercise all the paternal (sic) power." Georgia law provides for two ways by which a child can be legitimated by the father: Under §74-101 by the marriage of the natural father and the mother and the recognition of the child as his, and under §74-103 by a petition for legitimation.

With the classification of the children as legitimate and illegitimate in mind, we turn to §§74-401 through 74-424 involving adoption of children (§74-301 et seq. were repealed in 1973). Section 74-403 concerns the consent to adoption required of parents or guardians. Subsection (1) states that no adoption shall be permitted except with the written consent of the living parents of a child. Subsection (2) provides for an exception where the child has been abandoned or parental custody has been terminated. Subsection (3), which is under attack, provides that "If the child be illegitimate, the consent of the mother alone shall suffice."

The equal protection clause of the Fourteenth Amendment requires that all persons be treated alike under similar circumstances and conditions. It does not, however, prevent classification if the distinction is based on valid state interests. In *Labine v. Vincent*, 401 U.S. 532 (1971), the United States Supreme Court held that Louisiana's interstate succession laws that bar an illegitimate child from sharing equally with legitimate children are not violative of due process or equal protection. That is to say that a state may make valid classifications of children, of legitimate and illegitimate, if based upon valid state interests.

Georgia has concern for the well-being of all its children. To further the protection and care of its children, Georgia favors and encourages marriage and child rearing in a family relationship. In the case of an illegitimate child, there is no marriage and, most frequently, there is no father to raise the child; instead there is only a mother. It is reasonable for Georgia to

place full responsibility for the illegitimate child on the parent who is present. This placing of full parental power in the mother is consistent with the public policy favoring marriage and the family because the father can choose to join the family, Code Ann. §74-101, or can petition to legitimate the child, §74-103.

In the usual case, if the mother of an illegitimate child decides not to raise the child herself and consents to adoption, the state's interest in promoting the family as an institution for child rearing is served since the child will be placed with the adopting family. If the consent of the natural father were also required he might refuse without accepting the responsibility of fatherhood, and the state could be required to sever his relationship before the adoption could proceed. In addition, since the father has already shown his lack of interest by his failure to legitimate the child, there would be a very real danger of profit seeking by the father in order to secure his consent to the adoption. Georgia's interest in seeing to the needs of children is served by the statutory scheme. When the illegitimate child's mother consents to adoption, the state and the mother's interest coincide and the child can be placed with a family.

The state's interest is even stronger under the facts of this case. For eleven years the natural father took no steps to legitimate the child or support him. Yet when the stepfather, married to the child's mother, wishes to adopt the boy and accept responsibility for him, the natural father suddenly opposes legal recognition of this family unit.

We find that neither Code Ann. §74-203 nor §74-403(3) deny the natural father equal protection of the laws.¹

The natural father contends that the Georgia statutes take away his parental rights without due process of law. He relies on *Stanley v. Illinois*, 405 U.S. 645 (1971). In *Stanley*, the Supreme Court held an Illinois statutory scheme unconstitutional which required a hearing and proof of unfitness before the state could assume custody of a child of married or divorced parents or unmarried mothers, yet required no such showing before separating a child from an unwed father. In *Stan-*

¹ See *in re Adoption of Malpica—Orsini*, 36 NY2d 568, 370 NYS2d 511, 331 NE2d 486 (1975), appeal dismissed, 96 SC 765 (1976).

ley, the father was a defacto member of the family unit,² and the mother had died. Either of these factual differences would be sufficient to distinguish Stanley from the case before us. We find that Stanley is not controlling and that Code Ann. §§74-203 and 74-403 (3) violate neither equal protection nor due process.

Judgement affirmed. All the Justices concur except Undercofler, P.J., and Gunter, J. and Ingram, J., who dissent.

² Georgia recognizes common law marriages but Illinois does not.

31643. QUILLOIN v. WALCOTT.

UNDERCOFLER, Presiding Justice, dissenting.

The majority summarily disposes of the due process issue in Stanley v. Illinois, 405 U.S. 645 (1971) on the facts of that case. It then disposes of the equal protection issue on the basis that it is reasonable to treat unwed fathers differently because state public policy favors adoption. The court thus misconstrues Stanley. Stanley holds that an unwed father has due process rights and that he is denied equal protection because all other parents except unwed fathers are entitled to due process. "[A]s a matter of due process of law, Stanley was entitled to a hearing on his fitness as a parent before his children were taken from him and that, by denying him a hearing and extending it to all other parents whose custody of their children is challenged, the State denied Stanley the equal protection of the laws guaranteed by the Fourteenth Amendment." Stanley v. Illinois, supra, p. 649. (Emphasis supplied.)

The majority dismisses the due process right as merely a de facto right, which accrued from the fact that Stanley had intermittently lived with the mother and his children over an eighteen year period.¹ On the contrary, the Supreme Court held that Stanley's due process rights stemmed from the biological fact of paternity.² This is made clear in a footnote: "If unwed fathers, in the main, do not care about the disposition of their children, they will not appear to demand hearings. If they do care, . . . Illinois would admittedly at some later time have to afford them a properly focused hearing in a custody or adoption proceeding." Stanley v. Illinois, supra, p. 675, n. 9. (Emphasis supplied.) The Court even approved notice by publication to "All whom it may Concern," where the father was unknown or had disap-

¹ The children were not then living with the father, but had been left by the father with another couple. Stanley v. Illinois, supra at p. 663, n. 2.

² See also Gomez v. Perez, 409 U.S. 535 (1973) (unacknowledged illegitimates have a cause of action against their natural fathers for support); Glona v. American Guarantee Co., 391 U.S. 73, 75-76 (1968).

peared. See footnote 9, *supra*. Thus the Stanley majority intended to recognize the due process rights of *all* natural fathers, not merely those who live with their families.

The majority, I think, also misconstrues the basis of the equal protection claim in Stanley. I agree with the majority that the State has a rational basis in promoting the legitimation of the children of unwed fathers. Further, I know of no public policy of this State favoring adoption by strangers over being raised by one's own father. The crux of the claim in Stanley, however, is that because an unwed father has due process rights in his children, it is a denial of equal protection to treat him differently than other parents.³ Thus based on the due process right, which the majority does not accept, the equal protection claim is not so easily dismissed on state public policy grounds. On this distinction, I would hold that Code Ann. §74-403(3) denies unwed fathers due process and the equal protection of the laws as was held by the Supreme Court in Stanley.

This position is fortified by the remand of two cases to their respective state courts in light of Stanley. *Rothstein v. Lutheran Social Services*, 405 U.S. 1051 (1971), vacating and remanding, *State ex rel Lewis v. Lutheran Social Services*, 47 Wis2d 420 (178 NW2d 56) (1970); *Vanderlaan v. Vanderlaan*, 405 U.S. 1051 (1971), vacating and remanding, 126 Ill. App2d 410 (262 NE2d 717) (1970). On remand, the Wisconsin Supreme Court held, in a case similar to this one, that an adoption which had taken place without terminating the rights, or without the consent, of the unwed father was invalid in light of Stanley. The Wisconsin Court said, "The Supreme Court decided two things: (1) that the denial of a natural father's parental rights to a child born out of wedlock based on mere illegitimacy violated his constitutional right to equal protection of the laws, and (2) that the termination of a natural father's parental rights to a child born out of wedlock without actual notice to him, if

³ "To say that the test of equal protection should be the 'legal' rather than the biological relationship is to avoid the issue for the Equal Protection Clause necessarily limits the authority of a state to draw such 'legal' lines as it chooses." *Glon v. American Guarantee Co.*, 391 U.S. 73, 75-76 (1968)." *Stanley v. Illinois*, *supra*, p. 652.

he was known, or constructive notice, if unknown, and without giving him the right to be heard on the termination of his rights denied him due process of law." *State ex rel Lewis v. Lutheran Social Services*, 59 Wis2d 1 (207 NW2d 826, 828) (1973). Likewise, the Appellate Court of Illinois on the remand of *Vanderlaan v. Vanderlaan*, 9 Ill. App3d 260 (292 NE2d 145) (1972), interpreted Stanley as having recognized that unwed fathers have protectable rights in their children. See also *Miller v. Miller*, 504 F2d 1068 (9th Cir., 1974); *Willmot v. Decker*, 541 P2d 13 (Ha., 1975); *Forestiere v. Doyle*, 310 A2d 607 (Conn., 1973); *State ex rel Lewis v. Lutheran Social Services*, *supra*; *Slawek v. Covenant Children's Home*, 284 NE2d 291 (Ill., 1972); *Doe v. Dept. of Social Services*, 337 NYS2d 102 (1972); *In re Harp*, 495 P2d 1059 (Wash., 1972); *In re Brennan*, 134 NW2d 126 (Minn., 1965). But see, *In re Adoption of Malpica-Orsini*, 36 NY2d 568, 370 NYS2d 511 (331 NE2d 486) (1975), appeal dismissed, 96 SC 765 (1976).

2. I concur with the majority that Code Ann. §74-203 arbitrarily placing the parental power of the illegitimate child in the mother, rather than in the father as for legitimate children, has a rational basis in state policy. It is clear from *Labine v. Vincent*, 401 U.S. 532 (1971) that the State may make such determinations of family relationships. This section may be distinguished from Code Ann. §74-403 (3) because it does not purport to deprive the other parent of all parental rights.

Because of my position stated in division 1, however, I must dissent.

I am authorized to state that Justice Carter joins this dissent.

IN THE SUPREME COURT OF GEORGIA

LEON WEBSTER QUILLOIN,
Appellant,

vs.

ARDELL WILLIAMS WALCOTT
and RANDALL WALCOTT,
Appellees.

SUPREME COURT
CASE NO. 31643

MOTION FOR REHEARING

COMES NOW the Appellant, Leon Webster Quilloin, and pursuant to Rule 32 of this Court, moves for a rehearing by this Court on Appellant's Appeal from the Superior Court of Fulton County that was denied by the majority of this Court on January 6, 1977, thereby affirming the decision of the Superior Court of Fulton County that denied Appellant the relief prayed for therein.

1.

Appellant shows that this Motion is filed within ten (10) days of the decision affirming the ruling of the Superior Court of Fulton County.

2.

This Motion is filed on the grounds that the majority decision of this Court announced January 6, 1977 misconstrued the application of *Stanley vs. Illinois*, 405 U.S. 645 (1971), as not controlling in this case in the face of the fact that *Stanley vs. Illinois* held that a presumption that distinguishes and burdens all unwed fathers was constitutionally repugnant. That the majority decision also misconstrued and overlooked the fact that *Stanley* had been routinely applied by the United States Supreme Court in *Rothstein v. Lutheran Social Services*, 405 U.S. 1051 (1971), vacating and remanding, *State ex rel. Lewis vs. Lutheran Social Services*, 47 Wis.2d 420, (178 N.W.2d 56) (1970); *Vanderlaan vs. Vanderlaan*, 405 U.S. 1051, (1971) vacating and remanding; 126 Ill. App.2d 410 (262 N.E.2d 717) (1970). In this regard the majority decision of this Court overlooked the fact that on remand, the Wisconsin Supreme Court held, in a case similar to this one, that an adop-

tion which had taken place without terminating the rights, or without the consent, of the unwed father, was invalid in light of *Stanley*. The Wisconsin Court said, "The Supreme Court decided two things: (1) That the denial of a natural father's parental rights to a child born out of wedlock based on mere illegitimacy violated his constitutional right to equal protection of the laws, and (2) That the termination of a natural father's parental rights to a child born out of wedlock without actual notice to him, if he was known, or constructive notice, if unknown, and without giving him the right to be heard on the termination of his rights denied him due process of law." *State ex rel. Lewis v. Lutheran Social Services*, 59 Wis.2d 1 (207 N.W.2d 826, 828) (1973). Likewise, the Appellate Court of Illinois on the remand of *Vanderlaan vs. Vanderlaan*, 9 Ill. App.2d 260 (292 N.E.2d 145) (1972), interpreted *Stanley* as having recognized that unwed fathers have protectable rights in their children. See also *Miller vs. Miller*, 504 F.2d 1068 (9th Cir., 1974); *Willmot vs. Decker*, 541 P.2d 13 (Ha., 1975); *Forestiere vs. Doyle*, 310 A.2d 607 (Conn., 1973); *State ex rel. Lewis vs. Lutheran Social Services*, supra; *Slawek vs. Covenant Children's Home*, 284 N.E.2d 291 (Ill., 1972); *Doe vs. Dept. of Social Services*, 337 NSY2d 102 (1972); *In re Harp*, 495 P.2d 1059 (Wash., 1972); *In re Brennan*, 134 N.W.2d 126 (Minn., 1965). Also see the dissent *In re Adoption of Malpica-Orsini*, 36 NY2d 568, 370 NYS2d 511 (331 N.E. 2d 486) (1975), appeal dismissed for lack of sufficient federal question, U.S. 96 SC 765 (1976).

3.

This Motion is filed on the grounds that this Honorable Court has misconstrued *Stanley*, supra. by dismissing *Stanley* as not applicable on public policy grounds while this Court should have held that *Stanley* was applicable, and therefore held as the minority opinion "that Code Ann. §74-403(3), Georgia Laws of 1941, page 300, as amended, that provides:

"Legitimate children.—If the child be illegitimate, the consent of the mother alone shall suffice. . ."

denies unwed fathers due process and the equal protection of the laws as guaranteed by the Fourteenth Amendment to the United States Constitution.

4.

That the minority opinion failed to recognize the fact that in *Stanley* the children were not living with the father, but had been left by the father with another couple. *Stanley vs. Illinois*, supra. at page 663, No. 2.

5.

The Supreme Court held that *Stanley's* due process rights stemmed from the biological fact of paternity. *Gomez vs. Perez*, 409 U.S. 535 (1973); *Glona vs. American Guarantee Co.*, 391 U.S. 73, 75-76 (1968). This was overlooked by the majority.

6.

That the majority decision of this Court announced January 6, 1977 misconstrued the facts of this case that clearly showed that this child had always been recognized as the child of the Appellant, had always gone by the name of Quilloin, and had never been branded as an illegitimate or bastard by his father as a matter of fact. Therefore, the minor child was de facto legitimate even though the legal procedure of legitimating the child through the Courts was not taken so as to perfect a de jure legitimation according to Georgia law. The Appellant had signed the birth certificate of the child and allowed the child to go under his name all of the child's life, and the Appellant could, by Will, leave said child all of his estate thereby eliminating any legal benefit for the child flowing from the legitimation action under Georgia law. Therefore, it is conceivable in many cases where an unwed father could adequately protect and provide for his minor child without the necessity of Court intervention. On the contrary, the legal father could leave his entire estate to his paramour to the exclusion of his minor or adult children excepting the year's support procedure for this State. It should be noted, however, that the year's support procedure would only apply to minor children while an adequate unrevoked Will would suffice to protect even adult children whether a Court legitimation was accomplished or not. It should be noted here that the majority decision has decided this case based upon the legal definition of legitimacy as opposed to the factual definition of legitimacy in that the Appellant never denied that said child was his and his responsibility.

7.

That this Honorable Court's majority decision announced January 6, 1977 misconstrued the Fourteenth Amendment to the United States Constitution, and failed to apply said Fourteenth Amendment to the United States Constitution to this case by failing to hold Georgia Laws of 1971, page 300, as amended, Ga. Code Ann. §74-403(3) unconstitutional as applied by this Court to this action in that an application of this portion of Georgia Laws of 1941, page 300, as amended, Ga. Code Ann. §74-403(3) to the natural father, Appellant, violated his right to due process of the law and equal protection of the law as guaranteed by the Fourteenth Amendment to the United States Constitution in that Appellant was denied plain rights given to other biological parents of minor children in and to said minor children merely because he had never legally contracted a marriage with the biological mother and said child or children, and Appellant was therefore found to not have standing to contest the adoption action and was thereby denied the right to assert his fitness as a parent to have the partial custody of his biological child in the form of visitation rights with said child, all in violation of the due process clause and the equal protection clause of the Fourteenth Amendment to the United States Constitution, and that to classify all unwed fathers as unfit parents as a matter of law amounts to a State created classification not based upon reason generally or in particular as applied in this case.

8.

That this Honorable Court in its decision announced January 6, 1977 overlooked and failed to apply the due process and equal protection clause of the Fourteenth Amendment to the United States Constitution by failing to hold Ga. Code (3028), Ga. Code of 1933, as amended, Georgia Laws 1943, page 348, as amended, Ga. Code Ann. §74-203, which provides:

"Mother's rights, the mother of an illegitimate child shall be entitled to the possession of the child, unless the father shall legitimate him as before provided. Being the only recognized parent, she may exercise all parental power."

unconstitutional in that said law of this State is attempting to draft a definition of parent to mean the legal parent, that is the biological mother or the legally married father, or legally divorced father. The equal protection clause of the Fourteenth Amendment necessarily limits the authority of a State, and this State to draw such "legal" lines as it chooses. Therefore, said law is unconstitutional as applied by this court and the trial Court to the Appellant; in that the application of said law to the Appellant violates his rights to the equal protection of the laws, and is therefore, in violation of the Fourteenth Amendment to the United States Constitution in that Appellant is denied the same rights given to natural parents and fathers of minor children merely because he has never married the natural mother, and therefore, the Appellant is denied due process of the law by the ruling of the trial Court holding that he has no standing to object to the adoption by being denied the right to assert his fitness as a parent to have partial custody of said child in the form of visitation privileges or rights with said child, and that the denial of this right is a violation of the due process clause of the Fourteenth Amendment to the United States Constitution.

9.

That the decision of this Court decided January 6, 1977 therefore, overlooked *Glona vs. American Guarantee and Liability Insurance Company*, 391 U.S. 73, 75-76, 88 S.Ct. 1515, 1516, 20 L.Ed.2nd 441 (1968) which does not permit states to draw legal lines as it chooses.

10.

That this Honorable Court in its decision decided and announced January 6, 1977 has overlooked the decision of *Levy vs. Louisiana*, 391 U.S. 68, 71-72, 88 S.Ct. 1509, 20 L.Ed. 2nd 436 (1968), which held that a State Statute could not deny natural but illegitimate children a wrongful death action for the death of their mother merely because the child was illegitimate.

11.

That the majority opinion decided and announced January 6, 1977 overlooked and failed to give weight to the unimpeached testimony of the Appellant that he had

loved and cared for said child in the best manner that he could consistent with his circumstances in life shown by the testimony of the Appellant from T-44 to T-57, and in this regard, the majority opinion has failed to give weight to the undisputed fact that the minor child was never abandoned and left without necessities by the biological mother, the maternal and paternal grandmothers and the biological father. T-23, 24, 25. The majority decision is vastly inconsistent in that page 1 of said decision states:

"His father has provided some support and has given some presents from time to time."

and then the majority opinion stated at page 5, paragraph 2:

"For eleven years the natural father took no steps to legitimate the child or support him."

Therefore, the majority opinion is itself inconsistent based upon the facts of this case. The majority overlooked the fact that the natural mother admitted that Appellant had provided things of a material nature for the minor child, T-9, such as sending the child to kindergarten for an entire year.

12.

That the majority opinion decided and announced January 6, 1977 has failed to recognize the testimony in this case that indicates that the Appellant is not the stamped mold that society would place upon unwed fathers, and therefore, he should not be burdened by a presumption against him in this particular case drawn merely on legal rather than factual lines.

WHEREFORE, Appellant, Leon Webster Quilloin, prays that this motion for Rehearing be granted and that this Court vacate the majority decision decided and announced January 6, 1977, and substitute in lieu thereof the minority decision decided and announced January 6, 1977, and thereby reverse the ruling of the trial court.

S/

WILLIAM L. SKINNER
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Quilloin, Appellant

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**IN THE SUPREME COURT
OF THE STATE OF GEORGIA**

LEON WEBSTER QUILLOIN,
Appellant,
vs.
ARDELL WILLIAMS WALCOTT
and RANDALL WALCOTT,
Appellees.

GEORGIA SUPREME
COURT

CASE NO. 31643

**NOTICE OF APPEAL TO THE SUPREME COURT
OF THE UNITED STATES
PURSUANT TO RULE 10—filed Feb. 18, 1977**

PART I. (A)

Notice is hereby given that Leon Webster Quilloin, the Appellant above mentioned, hereby appeals to the Supreme Court of the United States from the final judgment of the Supreme Court of the State of Georgia entered on January 27, 1977 wherein the majority of said court denied Appellant's Motion for Rehearing wherein Justices Undercofler, P.J., Gunter and Ingram, J.J. dissented. That Appellant also appeals to the Supreme Court of the United States from the initial decision in the above-styled case that was decided and entered on January 6, 1977 that affirmed the ruling of the trial court entered on July 12, 1976 and amended on July 21, 1976 in consolidated cases numbered 8466, C-18673 and C-18672 wherein said trial court entered a final order of adoption in Case No. 8466 and wherein said trial court denied Petitioner's Petition for Legitimation filed in Case No. C-18673 and wherein said trial court denied Appellant's Application For Writ of Habeas Corpus in Case No. C-18672, and wherein the trial court applied and declined to hold Georgia Laws, 1943, page 538, as amended, Ga. Code Ann. §74-203, Ga. Code (3028) unconstitutional, and wherein said trial court applied and declined to hold unconstitutional Ga. Code Ann. §74-403(3), Georgia Laws, 1941, page 300, as amended.

This appeal is taken pursuant to 28 U.S.C. 1257 (2) in that a question involving the validity of a statute of the State of Georgia has been raised on the grounds that

said statutes are repugnant to the Constitution of the United States of America, and the decision of the State Court was in favor of its validity.

PART II. (B)

The Clerk of the Supreme Court of the State of Georgia shall transmit the entire record excepting the Briefs filed by both parties to the Clerk of the United States Supreme Court upon request by the Clerk of the United States Supreme Court or the Justices thereof.

PART III. (C)

The following questions are presented by this appeal:

1. Did the trial court and the majority of the Supreme Court of the State of Georgia err in failing to hold unconstitutional Georgia Laws, 1943, page 538, as amended, Ga. Code Ann. §74-203, Ga. Code (3028), which states:

"The mother of an illegitimate child shall be entitled to the possession of the child, unless the father shall legitimate him as before provided. Being the only recognized parent, she may exercise all the paternal power."

on the ground that said code section and statute violated the due process and the equal protection clause of the Fourteenth Amendment to the United States Constitution in that said statute creates an irrebutable presumption of unfitness to have partial custody on behalf of all unwed fathers and the Appellant?

2. Did the trial court and the majority of the Supreme Court of the State of Georgia err in failing to hold unconstitutional Ga. Code Ann. §74-403(3), Georgia Laws, 1941, page 300, as amended, which states:

"Illegitimate children.—If the child be illegitimate, the consent of the mother alone shall suffice". . .

on the grounds that said statute is unconstitutional and repugnant to the due process and equal protection clause of the Fourteenth Amendment to the United States Constitution in that said statute creates the irrebutable presumption of unfitness on behalf of all unwed fathers without regard to their former parental responsibility and therefore, denies Appellant and all unwed fathers

standing to object to the adoption of their natural, biological children?

Respectfully submitted this 17th day Feb., 1977.

S/

WILLIAM L. SKINNER
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Leon Webster Quilloin

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Decatur, Georgia 30030

(404) 377-0466

In the Supreme Court of the United States

No. 76-6372

LEON WEBSTER QUILLOIN, *Appellant*,
v.
 ARDELL WILLIAMS WALCOTT, *et al.*

ON CONSIDERATION of the motion of the appellant for leave to proceed herein in forma pauperis,

IT IS ORDERED by this Court that the said motion be, and the same is hereby, granted.

May 31, 1977

In the Supreme Court of the United States

No. 76-6372

LEON WEBSTER QUILLOIN, *Appellant*,
v.
 ARDELL WILLIAMS WALCOT, *et al.*

APPEAL from the Supreme Court of Georgia.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

May 31, 1977